

COMMUNICATION

FROM

WILLIAM MEDILL, FIRST COMPTROLLER OF THE
TREASURY,

IN REPLY

To the preamble and resolutions submitted by Mr. Green, and asking an investigation of the charges contained therein.

JUNE 5, 1860.—Referred to the select committee on the subject. Motion to print referred to the Committee on Printing.

JUNE 7, 1860.—Report in favor of printing, submitted, considered, and agreed to.

TREASURY DEPARTMENT,
Comptroller's Office, May 21, 1860.

I herewith hand you a communication, which I have felt it to be my duty to address to the Senate of the United States, in reply to the preamble and resolutions of Mr. Green, and asking an investigation of the charges contained therein, and have respectfully to request that you will present the same, together with the accompanying papers, to that honorable body.

I am, sir, very respectfully, your obedient servant,

W. MEDILL.

Hon. GEO. E. PUGH,
United States Senate.

TREASURY DEPARTMENT,
Comptroller's Office, May 21, 1860.

To the Senate of the United States:

I understand that a preamble and certain resolutions were offered in the Senate, during my recent severe indisposition and consequent absence from the city, alleging, among other things, that I had "assumed the prerogative of nullifying the will of Congress," in refusing my sanction to a claim against the United States which had been referred by the act of the 18th of August, 1856, to the First Comptroller of the Treasury for adjustment and award, "according to the principles of law, equity, and justice," and invoking upon me the "disapprobation" of your honorable body for no other offense, that I can perceive, than that of having been unable to agree in opinion with

the claimants, and others in interest, in relation to my duty in the premises.

Had the resolutions proposed an inquiry into the conduct of the Comptroller, or into the legality and correctness of the determination at which he arrived in his action upon the matter referred to, there is no one who would have been more gratified at their introduction than myself. It is what I have been long anxious to bring about, and what the claimants, I have no doubt, are equally anxious to avoid. But this is the first instance, I am inclined to believe, in the history of this or any other country, where an attempt has been made to condemn or censure a public officer for an alleged error in the construction of a law, especially when acting in a judicial capacity, unaccompanied by any charge of fraud or other intentional wrong whatever. That court would be of little service whose judge could thus be made responsible, for every decision he might render, to the censure of a coördinate department of the government.

By the sixth section of the act of the 18th of August, 1856, the First Comptroller of the Treasury was "required to adjust the damages due to Edward H. Carmick and Albert C. Ramsey, on account of the abrogation by the Postmaster General of their contract to carry the mail on the Vera Cruz, Acapulco, and San Francisco route, dated 15th of February, 1853, and to adjust and award to them, according to the principles of law, equity, and justice, the amount so found due." The matter, for some reason, was not taken up until the 11th of March, 1857, upon which day the Comptroller addressed a letter to Postmaster General Brown, who had just succeeded Mr. Campbell in office, advising him that he "intended to commence the examination of the case," and that "any proofs offered by the department would be examined with the care due to their merits." Differences of opinion arising, however, in regard to the meaning and proper construction of the law referring the matter to this office, and the duty of the Comptroller in the premises, the following questions were drawn up and submitted to the Attorney General of the United States for determination and settlement:

"1. Whether there was a contract, valid and binding in law, between the claimants and the Post Office Department?

"2. Whether that contract, if valid, has been abrogated by any act of the Postmaster General?

"3. Whether, although it may not have been abrogated in fact, yet is the Postmaster General or the Comptroller compelled so to regard it under the sixth section of the act of 18th of August, 1856?"

The Attorney General, whose opinions have always been regarded as binding and conclusive upon the accounting and other subordinate officers of the government, decided each of the aforesaid points, as follows:

1. That there was a contract entered into between the Post Office Department and Messrs. Carmick & Ramsey, for carrying the mail from Vera Cruz to San Francisco, by the Acapulco route, but that the same was not to take effect, or be considered in force, until approved by Congress and the necessary appropriation made therefor, neither of which conditions was ever fulfilled.

2. That said contract never was abrogated by any act of omission or of commission upon the part of the Postmaster General, or any other officer of the government.

3. That it is the imperative and unavoidable duty of the Comptroller, under the law aforesaid, to extend his inquiries back, and to investigate and determine the facts aforesaid, before proceeding to the consideration of damages. Upon this point, he says:

"But on the 18th of August, 1856, Congress passed a law requiring the Comptroller of the Treasury to adjust the damages due to Carmick & Ramsey, on account of the abrogation of this same contract, and award them, according to law, equity, and justice, what he should find to be due. Does this compel the Postmaster General and the Comptroller to ignore the truth, and shut their eyes upon the fact that the contract never was abrogated at all? Undoubtedly Congress may order the money in the Treasury to be paid to a person who has no claim upon the government, as well as to a just creditor. If Congress had chosen to say that Carmick & Ramsey should have half a million of dollars as a gracious gift, the Executive could not refuse to pay it, no matter how clear the proof might be that the law was unadvised and wrong. A recital in such a law that the sum to be paid was intended as compensation for damages which never occurred, would not take away the right of the party to receive what was given. The legislative will, expressed in the constitutional form, is enough, without more, to avouch a legislative act. But here is a law which does not give to the claimants any specified sum of money. The amount which they may lawfully demand is to be ascertained by the Comptroller. To enable him to do this, a standard, or rule, is furnished to him, and upon that he must base his calculation. He shall allow them the damages due to them *on account* of the abrogation of the contract. *He violates his duty* if he allows them what is not due on that particular account. In other words, he can do no more than make them a just compensation for the injury which they have suffered in direct consequence of the abrogation of their contract by the Postmaster General. Now, if the contract was never abrogated, its abrogation never occasioned any damage, and, of course, it follows that they have no claim under this law. This view of the subject is made still plainer by reference to another clause, which declares that the Comptroller shall award and adjudge to the claimants the amount found due according to law, equity, and justice. The obvious meaning of this is, to give the claimants what they might recover if the United States were suable in a court where justice is administered according to the rules of law and equity. In court they would have no case, for no judicial tribunal would give a party damages for a wrong that was never inflicted. The duty of the Comptroller is very plain. He cannot know what damages are due on account of the abrogation of the contract, without inquiring when, how, in what manner, and to what extent it was abrogated. If this inquiry shall lead him to the conclusion that the contract never was abrogated at all, he will have reached the limits of his power, for he is not authorized to award them compensation for a loss they may have suffered in any other way."

Without intending to assume jurisdiction of the case, the Secretary

of the Treasury transmitted this opinion to the Comptroller with unmistakable evidence of his concurrence in the same, and thereupon the Postmaster General, regarding the matter as disposed of, informed the latter, as well as the Secretary of the Treasury, that he would not "become a party to any investigation having for its object the adjustment of any damages in the matter," and would consequently offer no proofs on the part of the United States as suggested.

In view of this opinion, the concurrence of the Secretary of the Treasury therein, and of the action of the Postmaster General, as aforesaid, I addressed a letter to Messrs. Carmick & Ramsey, advising them of the necessity, if they continued to persist in the further prosecution of the claim, of going back to Congress and procuring from that body a more definite expression of their wishes in regard to the matter. This suggestion, which was repeated and urged upon their consideration more than once does not agree very well with the charge now made that I sought to "defeat the clearly expressed will of Congress." On the contrary, my course in this was in exact accordance with the views and recommendations of my predecessor, Mr. Whittlesey, as will be seen from his report, notwithstanding the allegation in the preamble that I had set his "decision at defiance." They insisted, however, upon their right to the views and final determination of the Comptroller, as the matter then stood, and after a full and careful examination of the case, and of all the arguments and papers submitted therewith, I delivered and caused to be recorded the decision which, with the opinion of the Attorney General and certain letters of the Secretary of the Treasury, is herewith inclosed, and the substance of which is "that I find nothing due from the United States to Messrs. Carmick & Ramsey under the contract aforesaid."

No other decision, it will readily be admitted, could have been made without regarding the law as absolute and mandatory in its character, and thereby overruling the Attorney General, whose duty it was made to construe the same, which never would have been tolerated for one moment in a case that is so utterly and entirely destitute of any merit in itself, as this one is, whatever might have been my own views in relation to the question.

In answer to a resolution adopted by the House of Representatives upon the suggestion of the claimants themselves, on the 23d day of December, 1858, requesting to know "what action, if any, had been taken" in the matter, the President of the United States transmitted a copy of the said decision, together with all the papers in the case, to that body. It was thereupon referred to the standing Committee on the Judiciary, who, after a careful review, and a protracted and thorough examination of the whole matter, sustained, as I understand, the action of the Comptroller in every particular. A letter from Judge Chapman, the member of the committee who was in charge of the matter, is also inclosed.

It will therefore be seen that if I did err, as is charged, or rather seems to have been taken for granted in the said resolutions, in my construction of the said law, or arrive, from whatever cause, at illogical or wrong conclusions in relation to the merits of the case, there is a remarkable coincidence of opinion with myself upon the subject,

among all those who have examined the same, and that if I am visited with the displeasure of the Senate as has been, I trust, rather thoughtlessly invoked, I will at least have the consolation of knowing that I am not without company, and that, too, of the most respectable character.

Having arrived at the conclusion that the contract "never was abrogated at all," I considered my authority, under the opinion of the Attorney General aforesaid, at an end, and made but little reference to the merits of the claim in any other respect. But as the matter is again up, I desire to call your attention, and that of Congress generally, to a very brief history of the case, with the view of showing that even if I had "assumed the prerogative" to use the language contained in the preamble aforesaid, of overruling the law department of the government, and of disregarding the views of the head of my own immediate department, the result would probably have been the same.

A number of capitalists in the city and State of New York having conceived the design of establishing a general transportation line from New Orleans to San Francisco, *via* Vera Cruz and Acapulco, and thereby shorten the time and distance between those two great commercial points, obtained, through their agent, Mr. Ramsey, now one of the claimants in question, from the government of Mexico, or the governments of certain of the States thereof, sundry grants, privileges, and franchises, in respect to the navigation of the river Mescala, the construction of roads, and the transportation of passengers, freight, mails, &c., in said republic, for the purpose of carrying that design into effect. So great was the confidence of the company in the proposed route, that they actually estimated their profits from the transportation of passengers and freight alone at the enormous sum of \$31,705 33 per month, after the payment of all expenses, and without any reference to the mails of the United States whatever.

These persons, so acting in the first instance as a private association, were, in the month of January, 1853, incorporated into a company, under the name of the "Mexican Ocean Mail and Inland Company," pursuant to and for the purposes mentioned in an act of the State of New York entitled "An act for the incorporation of companies formed to navigate the ocean by steamers," passed April 12, 1852. As soon as organized by the election of officers, and the adoption of a seal, the company assumed the grants, privileges, and franchises aforesaid; and, having established their principal office for the transaction of business in the city of New York, entered upon the use, and immediately proceeded to make all the necessary arrangements for the development of the same. Mr. Carmick, the other claimant, who had been deputed to Washington for that purpose, succeeded in entering into a contract on the 15th of February, 1853, with the Postmaster General for the transportation of the United States mail upon the said line from New Orleans to Vera Cruz, Congress having authorized the same, by the required appropriation, and which contract took effect and was put into execution immediately after it was signed.

For the benefit and further development of the said route, and acting in the capacity of agents, as aforesaid, Messrs. Carmick & R. together, entered into a contract with the Postmaster General

the 3d day of March, 1853, being the last day of the administration which was then in power, for the transportation of a mail from Vera Cruz, *via* Acapulco, to San Francisco for a term or period which was to commence upon the occurrence or happening of a certain event. Congress never having authorized or made any appropriation for this service, the contract was made "for and during the term commencing from the time Congress shall ratify the same and ending four years from *that date*." To avoid all misunderstanding, however, it was further stipulated, and expressly agreed between the parties, that said contract was "to have no force or validity until it received the sanction of the Congress of the United States by the passage of an appropriation to carry it into effect."

These contracts having been procured at the instance and for the benefit of the Mexican Ocean Mail and Inland Company, and with a view to the development of the proposed line, were duly assigned by Carmick & Ramsey to that company, in pursuance of a previous understanding to that effect, the latter contract, upon which alone the present claim is founded, by instrument under seal, dated March 17, 1853, less than fifteen days after it was made. The assignment, so far as it is necessary to quote the same, is in the following words:

"And whereas, for the better and more perfect assurance and development of the same, (the general transportation line,) the said Albert C. Ramsey and Edward H. Carmick have procured from the United States government a contract for carrying the mails of the United States from Vera Cruz, in Mexico, to San Francisco, in the United States, bearing date the 15th of February, 1853: Now, therefore, the said Albert C. Ramsey and Edward H. Carmick, for themselves, their heirs, executors, administrators, and assigns, respectively, doth each for himself, and not the one for the other, severally covenant and promise and agree, with the Mexican Ocean Mail and Inland Company, that they *have held*, and *do now hold*, and *will continue to hold*, the said contract, and any extension or renewal of it to and for the use of the Mexican Ocean Mail and Inland Company, and their successors and assigns, as and for their sole and exclusive property, together with all the issues and profits therefrom, or payments for the same; or any future increase of service under it; * * * and that the said contract shall be for the use, benefit, and profit of the said Mexican Ocean Mail and Inland Company, their successors and assigns; and that all and every payment or appropriation for or on account of said contract, for the enlargement of the service under it, or for any mail thereof, shall be held, received, and taken by them, for and on account of the said Mexican Ocean Mail and Inland Company, and shall be paid over to their order or appointment, or as they may, in writing, direct; and that they will do every necessary act or thing whereby this agreement may be, in good faith, fulfilled and executed by them, or either of them; and the said Mexican Ocean Mail and Inland Company doth covenant, promise, and agree, that the said Albert C. Ramsey and Edward H. Carmick shall be held free and harmless of, and from, all loss and damages by reason of the non-performance of any of the conditions of said contract by or on the part of those who

may be legally chargeable with the performance or the execution of the said contract."

On the same day—that is, on the 17th day of March, 1853, an article of agreement was entered into between the said company and Mr. Ramsey, one of the claimants, by which the latter was employed to take charge of the affairs of the company in Mexico, and to transport the said mails across that country, "according to the tenor, conditions, and liabilities of the said contracts," the inducement or preamble to which agreement is as follows:

"For that, whereas the said Albert C. Ramsey, formerly of the State of Pennsylvania, has heretofore procured and obtained, from the government of the republic of Mexico, or the government of certain of the States of the said republic, sundry grants, privileges, and franchises in respect to the navigation of the river Mescala, the construction of roads, and the transportation of the mails in said republic; which said grants, privileges, and franchises, were procured for and on behalf of sundry persons associated in the United States, now represented by the Mexican Ocean Mail and Inland Company; and whereas the said Mexican Ocean Mail and Inland Company have assumed the grants, privileges, and franchises aforesaid, and are proceeding to the execution and development of the same; and whereas, for the better and more perfect assurance and development of the same, the said Albert C. Ramsey and Edward H. Carmick have procured, from the United States government, a contract for carrying the mails of the United States from Vera Cruz, in Mexico, to San Francisco, in the United States, bearing date the 15th day of February, 1853; and whereas the said Edward H. Carmick, in fulfillment of the same design of the better assurance and development of said grants, privileges, and franchises, has procured, in his *own name*, a contract, bearing date the 15th day of February, 1853, for the transportation of the United States mail from New Orleans to Vera Cruz; *and whereas both the aforesaid contracts have, in fact, been procured for the benefit of, and for the sole enjoyment and profit of the said Mexican Ocean Mail and Inland Company:* Now, therefore," &c.; and in which agreement it is expressly provided that "all such duties and performances shall be at the cost, charge, and expense of the said Mexican Ocean Mail and Inland Company."

The preliminary matters having been thus arranged, the said company proceeded to prepare the route for operations, and on the 15th of June of the same year, the president, Mr. Rankin, wrote to the Postmaster General as follows:

"The position that our company sustains to the government, as the *real parties*, by contract, to execute the mail contract with Messrs. Ramsey & Carmick, renders it proper that the Post Office Department should be advised of the state of forwardness, on the part of the contractors, to fulfill the contract. * * *We* (the company) have purchased and ordered the whole of the rolling stock for the transit, and parties are now in Mexico clearing obstructions," &c.

It will thus be seen that the claimants, Carmick & Ramsey, not only transferred the contract, for the alleged abrogation of which they are now seeking damages, within a few days after it was made, but

that they have acknowledged, over and over again, under their own hands and seals, that it was taken in their names, merely as a matter of convenience, and that they never had any direct interest whatever in the same. But if there is anything more wanting than their own acknowledgments, to show the doubtful, if not groundless character of the demand in question, it may be found in certain proceedings which were instituted and had in the supreme court of New York, shortly after the passage of the law referring the subject to the Comptroller.

In the preparation and stocking of the route, the said company incurred a number of debts. Soon becoming insolvent, and finally abandoning the enterprise, suits were brought against a portion of the stockholders, who, by the provisions of the act of incorporation, were individually liable for an amount equal to their subscriptions, and judgments, in every instance, obtained.

The persons thus subjected to the payment of these liabilities, on hearing of the passage of the said law, and observing, with no little astonishment, that it was the "damages due Carmick & Ramsey" that were to be adjusted and paid, filed a bill in the court aforesaid, setting forth the said assignment and articles of agreement, and expressly alleging that, in pursuance thereof and of the original understanding upon the subject, the Mexican Ocean Mail and Inland Company "assumed the whole burden of the execution of the contract aforesaid, between the United States and the said Edward H. Carmick and Albert C. Ramsey, for the transportation of mails from Vera Cruz, in Mexico, and back;" that they "contracted for a large number of mules and horses, and purchased and transported to Mexico, coaches, wagons, and other rolling stock;" that they "contracted a large amount of indebtedness, the whole or greater part of which is owing and unpaid;" that "*no sum of money whatever was paid or expended by the said Carmick & Ramsey, or either of them, or by any person in their behalf, in relation to the said mail service, or in carrying out, or in attempting to fulfill, the terms of their said contract with the United States, as aforesaid;*" that "the damages so claimed by the said Carmick & Ramsey consist, in part, of the various sums of money expended and debts incurred *by the Mexican Ocean Mail and Inland Company*, in establishing the said mail route," &c.; and that the said "company, as between them and the said Carmick & Ramsey, are entitled to all the advantages and benefits to be derived from the said contract since the assignment thereof, as aforesaid, and to all damages which may have resulted by any breach of the same;" and upon the hearing of which bill, and the testimony then and there produced, the following order was made, and is understood and believed by this office to be still in full force.

"It appearing satisfactorily to the court by the affidavit of Charles A. Stetson, one of the plaintiffs, and Paschal W. Turney, one of the attorneys of the plaintiffs, that sufficient grounds for an order of injunction exist, now, on motion of Varnum and Turney, plaintiff's attorneys, it is ordered that the defendants, Edward H. Carmick and Albert C. Ramsey, do absolutely desist and refrain from collecting or receiving, assigning or transferring, any award which may be made by

the First Comptroller of the Treasury, pursuant to the provisions of the act of Congress passed August 18, 1856, for the damages due to them on account of the abrogation by the Postmaster General of their contract to carry the mail on the Vera Cruz, Acapulco, and San Francisco route, dated 15th February, 1853, or any right or claim to any damages or benefits under the said contract; and from doing any act or thing to prejudice the rights of the Mexican Ocean Mail and Inland Company, or the creditors or stockholders of said corporation in any such award, or in such damages or benefits until the further order of this court. And, in case of disobedience of this order, the said defendants, Ramsey & Carmick, are to be liable to the punishment therefor prescribed by law."

I cannot discover that either the facts recited in the foregoing assignment and articles of agreement, or those alleged and set forth in the said bill, in relation to the ownership of the line, the real parties to the contract aforesaid, the capacity in which the claimants acted in the premises, or the exclusive liability of the said company for all the expenditures that were made, and losses sustained in connection therewith, have ever been denied or called in question by any one. On the contrary, and in apparent corroboration of their truth, it will be seen, upon an examination of the papers, that the account for expenditures filed with the Comptroller, and for which damages are claimed by Carmick & Ramsey, is mainly, if not *entirely*, made up of the moneys paid out and expenses incurred by the said company, in procuring from Mexico the grants and privileges aforesaid long anterior to the making of the said mail contract; in paying the salaries of their officers, and other corporate expenses; and in purchasing horses, mules, wagons, coaches, and such other articles and things as were deemed necessary for the accomplishment of their main design, that is to say, the establishment of a shorter route than then existed between the Atlantic and Pacific States, for the transportation of passengers and freight, without any reference whatever to the particular contract in question; and for which expenses, remaining unpaid, the very suits above referred to were instituted, and judgments obtained against the stockholders as aforesaid. Indeed, I have been unable to find that either Carmick or Ramsey ever laid out or expended a single dollar in the opening or stocking of the route, or in any enterprise, improvement, or other preparation that was ever made, or commenced to be made, for the transportation of mails thereon under the said contract; or that either of them is, or ever was, liable for any of the debts which were incurred for any of the said purposes. That the said debts were contracted by the company, in the management and carrying on of their own business, and for their own sole benefit and use, would seem to be sufficiently established by the recovery of the judgments aforesaid; nor is it anywhere shown that there was one dollar paid out or a single liability incurred, even by the *said company*, that would not necessarily have been paid out and incurred in the ordinary prosecution of their principal enterprise, even if the said contract for carrying the mail as aforesaid had never been made or thought of.

The route never was opened or fully prepared for the transportation

of either passengers, freight, or mails. The parties, therefore, were never in a condition to have fulfilled the contract, even if it had been perfected by the approval of Congress, and hence the reason that they never called for or demanded a mail, which they had solicited the privilege of carrying at their own expense, in advance of any action by Congress; and hence, also, the reason, I presume, that they have never to this day applied to Congress for the approval and consequent completion of the said contract.

If this should be found to be a correct history of the case, in what particular is the interest of Carmick & Ramsey greater than that of laborers generally in the contracts or business of their employers? Where their right to damages when they could neither be affected by the success or failure of the contract? For what could they be indemnified when they never expended or lost a dollar in connection with the whole enterprise? Suppose there was some improper interference or omission of duty on the part of the Postmaster General, and a consequent infraction of the contract, it is very clear that *they* received no injury, and the Comptroller was not required or authorized to "adjust the damages" of anybody else. Indeed, the single fact of having presented the liabilities and expenditures of *other persons*, laid out and incurred for *other purposes*, than the carrying of the said mail, as a foundation for damages sustained by and due to themselves, affords a pretty fair illustration, in my judgment, of the character of the claim generally.

I have, therefore, in view of the said preamble and resolutions, which, though offered at a time and under circumstances that certainly invited delay, have been suffered to repose upon the table of the Senate ever since, respectfully to ask that your honorable body will cause a full, thorough, and impartial investigation to be made of the whole matter; inquiring especially into the merits of the said claim, irrespective of the law referring it for adjustment, the meaning or interpretation of the said law, the correctness of the course, and final decision of the Comptroller, and whether there were any facts material to a proper understanding of the case suppressed or withheld from Congress. I have never in this, or any other official act of my life, committed an intentional wrong, and as the resolutions in question were designed, and if left unnoticed are in some measure calculated, to create an impression to the contrary, I claim that, as a public officer, I have a right to your early action upon the subject.

Indeed, I invite the most searching scrutiny into all my official acts, feeling proudly confident that they will receive, upon examination, the sanction of your unqualified approval, as they now do the approval of my own conscience. All which is respectfully submitted.

W. MEDILL,
Comptroller.

P. S. The Comptroller received a letter from the attorneys of Mr. Aspinwall, one of the stockholders, desiring, "without in any way waiving the claim of our (their) clients in the matter, as heretofore presented, to withdraw the papers" relating to the injunction. But

he had previously received a communication from Mr. Rankin, their president, stating that, "at the proper time, the Mexican Mail Company are prepared to show vouchers, &c., for their expenditures, *with the full powers from Ramsey & Carmick for receiving the appropriation.*"

No. 1.

POST OFFICE DEPARTMENT,
Washington, April 16, 1857.

SIR: The First Comptroller of the Treasury having given notice to this department of his intention to commence the examination of the case of Edward H. Carmick and Albert C. Ramsey for damages resulting from an alleged abrogation, by the Postmaster General, of their contract of February 15, 1853, for conveying the mails on the Vera Cruz, Acapulco, and San Francisco route, agreeably to the requirement of the sixth section of the act of August 18, 1856, I submitted the case to the Attorney General on the 28th ultimo, requesting his opinion on the legal questions involved.

I have the honor to transmit herewith, for your information, a copy of the opinion rendered by the Attorney General in this case, and to apprise you that I have informed the First Comptroller of the Treasury that, inasmuch as the case turns upon the simple question, whether the contract was abrogated by the Postmaster General, which has been answered by the Attorney General in the negative, I have decided not to become a party to any investigation having for its object the adjustment of any damages in the matter.

I am, very respectfully, your obedient servant,

AARON V. BROWN.

Hon. HOWELL COBB,
Secretary of the Treasury.

No. 2.

TREASURY DEPARTMENT, *April 17, 1857.*

SIR: I herewith inclose to you a copy of a communication which I have just received from the Postmaster General, with the accompanying opinion of the Attorney General, referred to in the letter of the Postmaster General.

It appears that the claim pending before you arises out of an alleged abrogation of a contract said to have been made with the Post Office Department. The opinion of the Attorney General has been requested by the Postmaster General upon the legal points involved in the case,

and that opinion is now referred to you, as I take it for granted that you will regard it as conclusive upon the questions considered and decided by the Attorney General.

I am, very respectfully,

HOWELL COBB,
Secretary of the Treasury.

ELISHA WHITTLESEY,
First Comptroller.

No. 3.

TREASURY DEPARTMENT, *January 12, 1858.*

SIR: By the sixth section of an act approved August 18, 1856, it was provided "That the First Comptroller of the Treasury be, and is hereby, required to adjust the damages due to Edward H. Carmick and Albert C. Ramsey on account of the abrogation, by the Postmaster General, of their contract to carry the mail on the Vera Cruz, Aca-pulco, and San Francisco route," &c., &c., &c.

On the 17th April, 1857, at the instance of the Postmaster General, I communicated to your predecessor the written opinion of the Attorney General on some of the points involved in this claim. That opinion was given in response to the Postmaster General, under whose department the claim had arisen. In that communication I said "the opinion of the Attorney General has been requested by the Postmaster General upon the legal points involved in the case, and that opinion is now referred to you, as I take it for granted that you will regard it as conclusive upon the questions considered and decided by the Attorney General."

This communication has been construed into a positive instruction to the First Comptroller to conform his decision to the opinion of the Attorney General, and the language I employed goes far to authorize such a construction. My object was to express the strong conviction I entertained of the respect that should be paid to the opinion of the Attorney General by the First Comptroller. Entertaining that opinion still, I desire now to say to you that the act of Congress submits the question to the examination and decision of the First Comptroller of the Treasury, and I neither desire nor intend to assume jurisdiction of the case. I have passed, and shall pass no judgment upon it.

I am, very respectfully, your obedient servant,

HOWELL COBB,
Secretary of the Treasury.

WILLIAM MEDILL, Esq.,
First Comptroller of the Treasury.

No. 4.

Opinion of the Attorney General and decision of the First Comptroller in the case of Carmick & Ramsey.

ATTORNEY GENERAL'S OFFICE, *April 7, 1857.*

SIR: Your letter relative to the claim of Edward H. Carmick and Albert C. Ramsey for damages under the act of Congress passed

August 18, 1856, and asking my opinion on certain questions therein propounded, has been duly received, and I have considered the case.

The claimants' counsel have handed in a written argument, in which I am urged not to answer your questions, on the ground that your department has no concern with the matter. If this were true in point of fact, I might lawfully send back your communication without a reply. But what right have I to believe it? I am sure you have business enough on your hands to give you abundant employment without volunteering to take charge of a claim whose adjustment lies outside of your sphere. I am bound to presume (and I do presume) that it does concern the business of your department to know what the law is on the points you have presented.

I would not have referred in this letter to the argument I have mentioned, except for the reason that it gives me an opportunity of stating the rule by which I shall always be governed, namely, never to decline answering a question put by the head of a department at the instance of a private party who desires me to be silent. Besides, it is obvious to me that your department is concerned with the business to which your interrogatories refer. The claim mentioned in your letter arises out of a contract for carrying the mails. If it be unjust, the rights of the government must be protected by somebody. It cannot be pretended that the Comptroller is to decide upon an *ex parte* hearing; and who should produce the evidence and make the defense, if not the Postmaster General? It was upon this view that the Comptroller gave you notice of his intention to proceed with the investigation. What defense you shall make, or whether you shall make any, depends upon the construction of the law you inquire about.

It seems that Messrs. Carmick & Ramsey, on the 15th of February, 1853, made a contract with the Postmaster General for carrying the mail from Vera Cruz to San Francisco, by way of Acapulco, at the sum of \$424,000 per annum, for four years, "*commencing from the time that Congress shall ratify this contract.*" This contract further stipulates that it is "to have no force or validity until it shall have received the sanction of Congress by the passage of an appropriation to carry it into effect." Congress has never, down to the present time, made any such appropriation. It does not appear that the contractors carried the mails under this contract, or incurred any expense in preparing to do so. But it is not material whether they did or not, since they were distinctly warned that the government would not be liable until the sanction of Congress should be given, and they themselves admitted that they so understood their rights and obligations. Your immediate predecessor, Mr. Campbell, did not approve of the contract. He so stated in his report and in his correspondence with the contractors; but he never declared that he had any intention not to carry it out if Congress would ratify it by an appropriation.

1. Your first question is, whether the contract was valid and binding? I answer this in the affirmative. The law authorizes the Postmaster General to make contracts for carrying the mails from one part of the United States to another, through a foreign country. The prerequisites of advertising, &c., seem to have been observed, and I

see no reason for declaring this contract void. But it is binding in all its parts. The contractors must take it with all its imperfections on its head, and subject to all the conditions expressed in it. One of its terms is, that until Congress should approve it the contractors could not be called on for any service, nor the government be required to make any payment under it. This part of the contract is as binding as any other, and neither party has a right to disregard it. It certainly does not bind the Post Office Department to regard Carmick & Ramsey as having a right to carry the mails from Vera Cruz to San Francisco by the Acapulco route, and to be paid for doing so by the United States. My reason for saying this is not because the contract is void, but for the directly opposite reason; because it is valid, and because it is expressly agreed that no such effect shall be given to it except upon the occurrence of an event which never happened.

2. Was the contract abrogated by the Postmaster General? Certainly not. There is no act of that officer which can possibly be so construed. He did not bind himself and his successors to recommend the ratification of the contract by Congress. It was his duty to express his honest conviction in his report, and it would have been gross misbehavior to conceal it. Nor was there anything inconsistent with the agreement in warning the other parties that they must proceed on their own responsibility, nor in the instructions to the postmasters at New Orleans and San Francisco to let them have no mails without further order from the department. All this was but carrying out the contract, and acting upon it, according to the stipulations which both parties had put into it with their own free will. The government was to incur no responsibility and to be holden for no expense; the contractors were to exercise no rights as such, and to claim no payment until Congress would make an appropriation.

The Postmaster General claimed nothing for the government beyond what he bargained for. He warned the contractors against making any effort to bind upon the back of the government a burden which it was expressly agreed that no hand except that of Congress should presume to fasten there. He stood upon the very terms of the contract; and only asked of the other parties that they, too, would observe them with equal good faith. He did not change the schedule of other routes in connection, nor order the postmasters to let Carmick & Ramsey have the mails. It was not his duty to do so; for, as those persons had no contract which compelled them to carry a mail, it would have been wrong to let them have it in their charge. Upon the whole, I am very clear in the opinion that the contract in question never was abrogated, annulled, rescinded, or violated by the Postmaster General, in letter or spirit.

3. But on the 18th of August, 1856, Congress passed a law requiring the Comptroller of the Treasury to adjust the damages to Carmick & Ramsey on account of the abrogation of this same contract, and award them, according to law, equity, and justice, what he should find to be due. Does this compel you and the Comptroller to ignore the truth, and shut your eyes upon the fact that the contract never was abrogated at all? Undoubtedly, Congress may order the money in the treasury to be paid to a person who has no claim upon the gov-

ernment, as well as to a just creditor. If Congress had chosen to say that Carmick & Ramsey should have half a million of dollars as a gracious gift, the Executive could not refuse to pay it, no matter how clear the proof might be that the law was unadvised and wrong. A recital in such a law that the sum to be paid was intended as compensation for damages which never occurred would not take away the right of the party to receive what was given. The legislative will, expressed in the constitutional form, is enough, without more, to avouch a legislative act. But here is a law which does not give to the claimants any specified sum of money. The amount which they may lawfully demand is to be ascertained by the Comptroller. To enable him to do this, a standard or rule is furnished to him, and upon that he must base his calculation. He shall allow them the damages due to them on account of the abrogation of their contract. He violates his duty if he allows them what is not due on that particular account. In other words, he can do no more than make them a just compensation for the injury which they have suffered in direct consequence of the abrogation of their contract by the Postmaster General. Now, if the contract was never abrogated, its abrogation never occasioned any damage; and, of course, it follows that they have no claim under this law. This view of the subject is made still plainer by reference to another clause, which declares that the Comptroller shall award and adjudge to the claimants the amount found due *according to law, equity, and justice*. The obvious meaning of this is, to give the claimants what they might recover if the United States were suable in a court where justice is administered according to the rules of law and equity. In court they would have no case; for no judicial tribunal would give a party damages for a wrong that was never inflicted.

The duty of the Comptroller is very plain. He cannot know what damages are due on account of the abrogation of the contract, without inquiring when, how, in what manner, and to what extent, it was abrogated. If this inquiry shall lead him to the conclusion that the contract never was abrogated at all, he will have reached the limits of his power; for he is not authorized to award them compensation for a loss they may have suffered in any other way.

Very respectfully, yours, &c.,

J. S. BLACK.

Hon. A. V. BROWN,
Postmaster General.

Decision in the Carmick & Ramsey case.

TREASURY DEPARTMENT,
Comptroller's Office, August 11, 1858.

In the matter of the claim of Carmick & Ramsey for damages on account of the alleged abrogation of a contract.

The act making appropriations for the service of the Post Office Department, approved August 18, 1856, contains the following provision:

"SECTION 6. *And be it further enacted*, That the First Comptroller

of the Treasury be, and he is hereby, required to adjust the damages due to Edward H. Carmick and Albert C. Ramsey on account of the abrogation, by the Postmaster General, of their contract to carry the mail on the Vera Cruz, Acapulco, and San Francisco route, dated the 15th of February, 1853; to adjudge and award to them, according to the principles of law, equity, and justice, the amount so found due; and the Secretary of the Treasury is hereby required to pay the same to the said Carmick & Ramsey, out of any money in the treasury not otherwise appropriated."

The substance of the contract above referred to is as follows:

That Carmick & Ramsey should transport the United States mail from Vera Cruz, *via* Acapulco, to San Francisco, and back, twice a month, according to a schedule furnished at the time, in thirteen days each way, thus extending the New Orleans and Vera Cruz line through Mexico, and making one through line between New Orleans and San Francisco in sixteen days, for the sum of \$424,000 per year, for and during the term *commencing from the time Congress should ratify the contract, and ending four years from that date.*

The contract closed with this additional and emphatic stipulation: "And it is hereby further expressly understood that this contract is to have no force or validity until it shall have received the sanction of the Congress of the United States by the passage of an appropriation to carry it into effect."

It is proper also to state that, by certain subsequent contracts entered into between Messrs. Carmick & Ramsey and the Mexican Ocean Mail and Inland Company, the latter company became the parties *in fact* to execute the contract aforesaid, as appears from their letters to the Postmaster General of June 15 and November 23, 1853. In the first of said letters they say that they "are the real parties by contract to execute the contract with Carmick & Ramsey;" and in the second, that "by the 5th section of the law of 1848 it is illegal for contractors to assign their contract; and although aware that the department is not bound to recognize any but the contractors, yet *frankness enforces* the propriety of saying, that by specific covenants, this company have agreed with Messrs. Ramsey & Carmick to fulfill all the conditions of the contract on their part, to be kept and performed, in relation to land service between Vera Cruz and Acapulco."

By reference, also, to the above letter of June 15, 1853, it will be seen that, at that time, this company were, as stated by them, making arrangements to execute the contract. "We," they remark, "have purchased and ordered the whole of the rolling stock for the transit, and parties are now in Mexico clearing obstructions," &c.

The contract between the Postmaster General and Messrs. Carmick & Ramsey contains a provision also that "the Postmaster General may annul the contract for assigning the same without his consent."

On the 7th day of March, 1853, Mr. Hubbard, a few hours before retiring from the office of Postmaster General, authorized the postmasters at New Orleans, San Francisco, Monterey, and San Diego, to send a mail by the Vera Cruz and Acapulco line, containing letters or papers expressly directed to go by that line, when said communication should be open and the contractors prepared to carry the same, "with

the *express* understanding that neither the department nor the government is to be in any way holden for any expenses attending such service; but, as provided in the contract, it is left for Congress to determine whether the contract is to be sanctioned by an appropriation to carry it into effect; the pay, if any, for said service commencing only in accordance with the terms of the contract."

On the 15th of June, 1853, the president of the Mexican Ocean Mail and Inland Company advised Mr. Campbell, who had in the meantime succeeded Mr. Hubbard as Postmaster General, that said company, as the *real* parties to execute the contract in question, were preparing to do so with all possible dispatch; that by "the 10th of August the mules and horses would be down from Coahuila, and that they then expected to make the transit across."

In reply, Mr. Postmaster General Campbell, on the 9th of July, 1853, addressed a letter to Mr. Rankin, president as aforesaid, in which he stated that he felt it to be his duty, after due deliberation, to inform him that the conditional contract entered into between his predecessor, Mr. Hubbard, and Messrs. Ramsey & Carmick, for the conveyance of the mails on the Vera Cruz and Acapulco line, did not meet with his approbation; that he considered the route impracticable for mail purposes, and inasmuch as the large sum of \$731,868 was already drawn yearly from the treasury for contracts between the Atlantic and Pacific, he deemed it both inexpedient and unjust to other sections of the country to expend a still further sum of \$424,000 per year for the same service; and moreover, that he disapproved of the principle upon which this contract was founded, which, although it established no legal claim to compensation, yet the contractors might go on and incur expense in the expectation that they would be paid, and Congress, more from private sympathy than public policy and justice, be at length induced to yield to a measure to which its prior sanction never could have been obtained.

On the 23d of September, 1853, Postmaster General Campbell directed the postmasters at New Orleans, San Diego, Monterey and San Francisco, to report to the department for further instructions, should the proprietors of the Vera Cruz, Acapulco, and San Francisco line apply for mails to take over their route, under the conditional order of his predecessor, dated March 7, 1853, before delivering the same, "to enable the department," as he subsequently states in his letter of January 31, 1855, to the Speaker of the House of Representatives, "to be fully satisfied that all mails forwarded by that route were committed to the care and custody of proper persons, and would be safely transmitted through Mexico." It is not shown, however, that any mails were ever called for, or that any letters or papers were ever expressly directed to go by that line.

The Mexican Ocean Mail and Inland Company, uniting with one Charles Morgan, addressed a letter, bearing date October 26, 1853, to the Postmaster General, asking for a change of schedule between New Orleans and Vera Cruz, so as to enable them to connect with the steamers of the Pacific Mail Steamship Company on the Pacific side, *via* the Vera Cruz and Acapulco route. This the Postmaster General, in his reply of November 3, 1853, declined to do, as the contract in

relation to the Vera Cruz and Acapulco line had not been approved by Congress, as was necessary, before it could go into effect; and even if it should be approved, he could sanction no change that would dispense with the additional semi-monthly mail, which was clearly contemplated by his predecessor on first entering into the same.

On the 12th of November, 1853, Mr. E. H. Carmick again applied to the Postmaster General for an order permitting him, as one of the contractors, to carry a mail over this route, leaving it optional with persons to send by this way, or to designate the same on the letter, and, in giving such order, wished the Postmaster General "particularly to state that the department will, in no way, be bound for any future remuneration for the service."

Mr. Rankin, on the 23d of November, 1853, as president of the Mexican Ocean Mail and Inland Company, addressed a communication to the Postmaster General, setting forth that the said company were the *real* parties to execute the contract, urging the importance of the route, furnishing letters and other information concerning it, and asking him to recommend to Congress the propriety of approving the contract.

On the 28th of November, 1854, Messrs. Ramsey & Carmick wrote to the Postmaster General, calling his attention to their contract with the department, and stating that they had provided steamers for the service on the Pacific ocean, collected horses, mules, stages, and other materials for the overland conveyance; incurred expenses amounting to \$98,000, of which \$56,000 had been paid, and that they intended to have commenced running the line in December, but the department having, in its annual report, expressed its disapprobation of the enterprise on the ground of the impolicy of conditional contracts, they ceased operations, and consequently sustained serious damages from the department. To this letter the Postmaster General responded, December 30, 1854, that the conditional contract for service between San Francisco and Vera Cruz, to which they referred, was executed on the 3d of March, 1853, just before he came into office; that his attention was called to the subject by Mr. Rankin's letter of the 15th June, 1853; that in his reply thereto, of the 9th of July following, he gave his views at length in regard to the said contract; and that if any money was expended by them after that time, it was done with a full knowledge of his views.

The foregoing facts contain a general outline of the history of this case down to the passage of the act above quoted, referring the subject to this office. It is scarcely necessary to add that Congress has never sanctioned the contract by passing the necessary appropriation, or otherwise.

On being called upon by this office for a statement of the nature and amount of the damages claimed by them, Messrs. Carmick & Ramsey, on the 13th of November, 1856, submitted the following:

"We claim, as we are advised we may claim, lawfully, equitably, and justly, our contract price for the term of the contract, subject only to such abatement or deduction as may be shown, the burden of proof of such abatement, if any, resting on the government. We need not

here recite the consideration agreed upon, as that is already of record in your office.

"Otherwise, we claim, as we are advised we may claim, lawfully, equitably, and justly, the full value of our contract, what it would have been worth to us had we been permitted to give effect to it according to its intent.

"The papers herewith submitted exhibit a fair view of the proportions of our claim. We also claim the amount of the account of outlays and expenses in Mexico, as given by Mr. Marsh.

"EDWARD H. CARMICK,

"ALBERT C. RAMSEY."

The papers accompanying the above statement and demand are a *pro forma* account of estimated receipts and expenditures for their line under the contract, showing that they expected, by receipts from passengers and freights alone, to pay all of the expenses of the route, and clear in that way, per month, \$31,705 33, and thus making all that would be received under the contract clear profit. Also, an account of expenses incurred in Mexico, amounting to \$113,117 54. The demand of the claimants may therefore be formally stated thus:

Compensation for four years, at \$424,000 per year.....	\$1,696,000 00
Expenses incurred, &c.....	113,117 54

Entire damages claimed.....	<u>1,809,117 54</u>
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It is contended by the claimants that the investigation of the principal facts in the case by this office is precluded by the act in question, they having been expressly determined by the words of the law itself. It is accordingly claimed that Congress, on the passage of the section heretofore quoted, has declared—

1st. That a contract was entered into March 3, 1853, with Carmick & Ramsey to carry the mail on the Vera Cruz, Acapulco, and San Francisco route.

2d. That said contract was abrogated by the Postmaster General.

3d. That damages are due Carmick & Ramsey on account of said abrogation.

4th. That the First Comptroller of the Treasury is required to adjust said damages, and to adjudge and award to Carmick & Ramsey, according to principles of law, justice, and equity, the amount he shall so find due.

I do not understand that the preamble or recital in an act is of greater force than the enacting clause. Indeed, although the preamble usually contains the motives and inducements to the passage of the statute, it has been held by the courts to be no part of it. A false recital will not invalidate the enacting clause, an irrelevant one cannot divert the object of the law; and where the words of the enacting clause are plain and intelligible, they can receive no construction or interpretation from the recital or preamble different from their natural and obvious meaning.

It certainly has never been considered by the courts that a false recital of the facts in a statute was conclusive as to those facts. If such were the case, a legal and constitutional enactment might be rendered wholly inoperative or void by its being made subject to the false recital.

If the theory be correct that the declarations of Congress, or other legislative body, contained in the preamble or recital in a statute, are conclusive as to the facts stated, it is evident that Congress has the power to make all of its enactments, especially in private and special bills, constitutional and valid.

This is so evident as scarcely to need illustration. Take any case of doubtful constitutional power: Congress, for instance, wishes to establish a national bank, and recites in the preamble of the act that, for the purposes of borrowing money, collecting the revenue, and paying the debts of the government, it is absolutely necessary that a bank be incorporated, and that these objects can be accomplished in no other way. *If such be the fact*, the constitutional power to incorporate the bank is beyond question; and if the recital of Congress be conclusive, there can be no inquiry as to the existence of that power.

Or, say Congress desires to confiscate or condemn to public use my property: to avoid the constitutional requirement that compensation shall be paid *me before* appropriating the same, it is only necessary that the act of appropriation recite that the property belongs to the government, or that it is worthless and of no value. If such recital be conclusive, the Constitution is no protection to me, and I am entirely without redress.

Let us test the correctness of this position by supposing, in the present case, the facts to be reversed in the recital in this act. If Congress, after having examined the claim of Carmick & Ramsey, a committee having made an adverse report thereon, had passed an act reciting that they never had any contract with the government, but nevertheless directing the proper accounting officers to adjust their claim and award them the damages that might be found due to them, according to the principles of law, justice, and equity, I do not doubt but that they would now be urging the propriety on the part of that officer of a full and thorough investigation of all the facts, and as strenuously denouncing the idea of his being precluded from so doing by any recital in the statute, as contrary to every principle of law, justice, and equity; and if it should appear that a contract had been entered into, which had been wantonly, illegally, and unjustly violated by the department, they would certainly insist that they were entitled to whatever damages they sustained, notwithstanding the recital.

It is not denied that Congress has full constitutional power to order the public money to be either paid away or given away at its pleasure; but its will so to do must be expressed in proper form. Nor will a bad reason or false object invalidate the gift, any further than the rule holds good that where the reason of the law ceases the law itself ceases.

Thus, Congress might enact a law reciting that, whereas I had a contract with the government which had been violated, I should be considered as injured to that amount, and paid the sum of \$10,000, the

fact being that I never had had such a contract at all. Yet it was the will of Congress that I should have the \$10,000, if so ordered, and the law gave the officers authority to pay me the money, notwithstanding the law gave a reason which did not exist for paying the same.

But it would have been widely different if Congress had recited that I had had the contract, and that it had been violated, and therefore the accounting officers should adjust the damages due me by reason of such violation, and award me the amount so found due according to law, justice, and equity. In such case there could be nothing paid, for there would be neither contract nor violation of contract on which to predicate an award.

I cannot better apply this distinction than by quoting from the opinion of the present Attorney General of the United States, to whom this whole case, as well as the construction which should be placed upon the law in question, has been submitted:

"Undoubtedly," says that gentleman, "Congress may order the money in the treasury to be paid to a person who has no claim upon the government, as well as to a just creditor. If Congress had chosen to say that Carmick & Ramsey should have half a million of dollars as a gracious gift, the Executive could not refuse to pay it, no matter how clear the proof that the law was unadvised and wrong. A recital in such a law that the sum was intended as a compensation for damages which never accrued would not take away the right of the party to receive what was given. The legislative will, expressed in a constitutional form, is enough, without more, to avouch a legislative act. But *here* is a law which does not give to the claimants any *specific sum of money*. The amount which they may lawfully demand is to be *ascertained* by the Comptroller. To enable him to do this, a standard or rule is furnished to him, and upon that he must base his calculations. He shall allow them the damages due to them on *account* of the abrogation of their contract. *He violates his duty if he allows them what is not due on that particular account.*

"In other words, he can do no more than make them a just compensation for the injury which they have suffered in direct *consequence* of the abrogation of their contract by the Postmaster General. Now, if the contract was never abrogated, its abrogation never *occasioned* any damages, and, of course, it follows that they have no claim under this law.

"This view of the law is made still plainer by reference to another clause which declares that the Comptroller shall award and adjudge to the claimants the amount found due according to law, justice, and equity. The obvious meaning of this is, to give the claimants what they might recover if the United States were suable in a court where justice is administered according to law and equity."

These views are also applicable, and, it seems to me, should be considered conclusive, as to the position assumed by the claimants that the Comptroller is to be governed in the adjustment of their claim both as to the principle of the adjustment and the facts by the reports made by the committees of Congress rather than by the law itself. I know of no principle of law which would authorize me to consult the reports of the committees for any other purpose than to ascertain the intent

of Congress in enacting the law, or the meaning thereof, if that intent be *doubtful* or the meaning *obscure*.

Where the words of the statute have a plain and obvious meaning, and the intent of Congress can be gathered therefrom, there is no necessity to refer to the history of the enactment, its title, or preamble, for an interpretation. Nay more: if the report of a committee upon which the act may have been founded, and even the title and preamble of the act should show a different intention from that expressed in the plain words of the law, the latter of course governs, even though it may defeat the intention of Congress itself. In the case of *Aldridge vs. Williams* (3d Howard's Rep., page 24) the Supreme Court of the United States have very clearly set forth the proper rule of construction, as follows:

"The judgment of the court cannot in any degree be influenced by the construction placed upon the act by individual members of Congress in the debate which took place on its passage, nor by the motives or reasons assigned by them for supporting or opposing amendments that were offered. *The law, as it is passed, is the will of the majority of both houses, and the only mode in which that will is spoken is in the act itself, and we must gather the intention from the language there used.*"

Independent of the high authority of this decision, it is but the reiterated expression of well-settled principles; and, on either account, a far better exposition of the law than the novel opinion of Attorney General Wirt, quoted by the claimants, that "the accounting officers have the right to adopt (generally, or in all cases,) the report of a committee of Congress, upon which a given law was reported and passed, for the principles which are to govern in the settlement of accounts under the law, and that the passage of a bill accompanying a written report may be considered as the adoption of that report."

That Mr. Wirt intended this opinion to apply only to the case before him, and not as a general principle of law, is evident; for, but a short time before, in an elaborate and most carefully prepared opinion upon the question of allowing fees to imprisoned witnesses, he uses the following language: (The italics are his own.)

"It is true that, *where the words of the statute are obscure or doubtful*, we may resort to the intentions of the legislature in order to find the meaning of the words. '*Where the words of a statute are doubtful and uncertain*,' says Lord Chief Justice Willis, 'it is proper to imagine what was the intent of the legislature, but it is very dangerous for judges to branch out too far in searching into the intent of the legislature where they have expressed themselves in plain and clear words.'

"So that it is only where the words of the statute are doubtful and uncertain that recourse can be had, safely or properly, to the intention of the legislature to expound the words. Besides, how are we to come at the meaning of the legislature but through their words? And with what propriety can we go into a conjectural speculation as to their meaning when they have told us explicitly what they do mean? 'Where a law is plain and unambiguous,' says the Supreme Court, (in *United States vs. Fisher*, 2 Cranch, 399,) 'whether it be expressed in general or limited terms, the legislature should be intended to

mean what they have clearly expressed, and no room is left for construction."—(Opinions of Attorneys General, edition 1850, p. 281.)

I do not discover anything obscure or doubtful in the language of this law. I think that the duty of the Comptroller is plainly pointed out, and that the principle which is to govern him in the investigation of the case is clearly set forth in the act in perspicuous and unmistakable language; and, therefore, I do not deem it necessary to consult either the report which was submitted to the Senate, or the individual views and opinions of the members of Congress, whether given in debate, or otherwise, in order to determine what the law *means*, or what my duty is under the same. If it has failed to accomplish the object of Congress, or in any way fallen short of the purpose which it was intended to subserve, it is no fault of mine. I have no power to add to or amend it by construction, where its language is so plain as to admit of no construction.

I find a law upon the statute book which requires me, as First Comptroller of the Treasury, to "adjust," that is, settle and determine, the damages *due* Carmick & Ramsey on *account* of the abrogation by the Postmaster General of their contract, and "to adjudge and award," that is, judicially decide and decree, to them, according to the principles of law, justice, and equity, the amount so found due.

I cannot discover that the powers conferred upon the Comptroller are different from those which would have belonged to a court of justice, if this had been an act to authorize Carmick & Ramsey to prosecute a suit against the government. Had the act been that Carmick & Ramsey were thereby authorized to bring a suit against the United States, in the circuit court of the District of Columbia, for damages due them by reason of the abrogation of their mail contract, with full power in the court to adjudge and award them, according to law, justice, and equity, the amount found due, the court would have had neither more nor less power in the premises than is conferred upon the First Comptroller.

But even if it were allowable and proper to look into the history of this law, and to consult the action of Congress in both houses in relation to its introduction and passage, I am at a loss to see in what particular the claimants would be benefited thereby. The result would certainly prove unfavorable to the position assumed by them, that it was the intention of that body to preclude any investigations by the Comptroller into the existence and accuracy of the facts therein referred to.

The report of the committee was submitted on the 14th of August, 1856. The section or law in question was moved as an amendment to the Post Office appropriation bill on the 16th of the same month, and agreed to in both houses *on the same day*, and on the 18th Congress adjourned. The last few days of a session afford, as all know, a very inadequate opportunity for the investigation of facts, even where the reports have been printed and duly distributed, which could hardly have been done in so short a time; and hence the wisdom and propriety in the present case of referring the *whole controversy* to the department.

That the impression was sought to be created by the friends of the

claim, and prevailed during the pendency of the amendment in both the Senate and House; that the *whole subject*, as well the question of an abrogation of the contract as that of the measure of damages, was thereby referred to the Comptroller, is clearly shown by the debates which took place on the occasion.

Mr. Yulee said: "In my opinion not one dollar is owing by the government to these parties. A conditional contract only was made, not to go into effect or have any operation until approved by Congress. It never has been so approved, and I do not think anything has occurred, on the part of any officer of the government, which justly involves the treasury in any responsibility for damages to these parties."

Mr. Bayard said: "I know nothing of the merits of the claim, and do not mean to pass any judgment on it, but I think we are going much further than we have gone yet, when, on a report made upon the 14th instant, two days ago, we are asked to pass, in an appropriation bill, a measure which is condemnatory of a high executive officer of the government. I do not think that when we have *no opportunity for examination* that that should be done.

"Those gentlemen who have examined the case may be perfectly familiar with it, but there are facts here *unknown to me*."

Mr. Hunter said: "Here is a contested claim which it is manifest would require a very long debate in order to ascertain its merits. It is well known that we have *no time* to enter into the subject. It is known we *cannot* do it. The friends of such measures as this have only to wait until the heel of the session, place them on an appropriation bill, and make so many speeches that there is no time for any one who cares for the safety of the bill to attack them. Thus they are sure to pass."

Mr. Slidell said: "It appears to me that two facts are assumed in this amendment—of one of which we have no evidence at all, and the other is in direct conflict with the record.

"The amendment assumes, in the first place, that damages are due to Carmick & Ramsey. That is a doubtful question. I doubt very much whether any damages have been incurred. The second fact, I think, is in direct conflict with the record. The amendment speaks of a contract which has been abrogated by the Postmaster General. The Postmaster General has no right to abrogate a contract. *He has not attempted to do so*. One Postmaster General made a provisional contract with these gentlemen for the transportation of the mail.

"I doubt very much whether any Postmaster General has the right to enter into provisional contracts of that kind; but admitting the right, the contract was subordinate expressly by its very terms to the sanction of Congress. That sanction has never been given. The contract never actually existed—it never took effect."

In reply to these and other objections to the passage of the law, Mr. Durkee, who not only submitted the report, but moved the amendment in question, said:

"The amendment proposes to authorize the Comptroller of the Treasury to *examine fully into the nature and extent of this claim, and to settle it upon principles of law and equity*. Since that officer has

won the confidence of the government and people, and that deservedly, I hope the amendment will be adopted."

Mr. Houston, who likewise favored the amendment, said: "I think that when, by *this amendment*, the subject shall be referred to an intelligent and competent officer, to *ascertain whether they have sustained injury, and whether it is right to make reparation for that injury*, it is a sufficient check against any *imposition* on the government. It is placing it in the hands of one competent to render justice."

Such was the construction given to the amendment by its *author* and *friends* at the time of its pendency in the Senate. In the House of Representatives there was no debate on the subject. The amendment, with others, was rejected, and again restored through a committee of conference.

Mr. *Billinghurst*, from the committee, the same gentleman who submitted a further report in this matter at the late session of the present Congress, said:

"The report of the committee is, that the House recede from its disagreement to this amendment. *The matter is referred to the proper department to be adjudged on principles of justice and equity.* * * * The section which I have read refers *the subject to the decision of the proper department* on principles of law, equity, and justice; and the committee recommend that the House recede from its disagreement, which I think ought to be done."

As the remarks of Mr. *Billinghurst* seem to have conveyed to the House all of the information it possessed upon the subject, that body must certainly have acted upon the supposition that they were referring the *whole controversy* to the Comptroller.

I do not perceive, therefore, that in going behind the law to consult the history of its passage as a guide to its meaning and object, that the position, as aforesaid, of the claimants would be materially aided by the investigation. With the view, then, of carrying out the requirements of the law, I am to inquire what was the contract between Messrs. Carmick & Ramsey and the Postmaster General; whether abrogated by the latter party; and if so, what injury resulted to the contractors thereby? I am confined in my inquiries to the contract, and the results arising out of the same. If Messrs. Carmick & Ramsey have equitable claims for relief *dehors* the contract—if wrong and injury have been done them by any action of the government in matters not strictly within the terms of the contract—it is very plain that the Comptroller is powerless to relieve them. A private sympathy or sense of injustice done them, in such case, should be kept entirely out of view while in the discharge of the single duty imposed by the law of examining into and determining their legal and equitable rights under the contract.

The substance of the contract, and the facts growing out of and connected therewith, have already been stated; but it is proper that I should set forth more fully the several obligations incurred by the government by virtue of the contract, in order that I may discover wherein it may have been violated by the Postmaster General. The preamble of the contract recites, that whereas Albert C. Ramsey and Edward H. Carmick have been accepted as contractors for transport-

ing the mails on route No. 9, from Vera Cruz, *via* Acapulco, to San Francisco, and back, twice a month, according to a certain schedule made and agreed upon at the time, at and for the sum of four hundred and twenty-four thousand dollars per year, "*for and during the term commencing from the time Congress shall ratify this contract, and ending four years from that date.*" The contract then recites the obligations and duties of the contractors, and proceeds to bind the government thus: "for which service, *when performed*, the said Albert C. Ramsey and Edward H. Carmick, contractors, are to be paid by the United States the sum of four hundred and twenty-four thousand dollars a year, to wit, quarterly, in the months of May, August, November, and February." But, as a qualification or condition governing all of the covenants of either party, this agreement is inserted in the contract:

"And it is hereby expressly understood that *this contract is to have no force or validity* until it shall have received the sanction of the Congress of the United States by the passage of an appropriation to carry it into effect."

Under and by virtue of the contract, therefore, *there was no obligation imposed upon either party to perform any of its stipulations* until after the occurrence of the condition which was to give it life, validity, and force. The condition has never been performed. Congress never sanctioned the contract, and its terms, of course, are in no way binding upon either of the parties. There could, therefore, be no abrogation of the contract by the Postmaster General or any one else. It carried within itself the cause of its own failure.

I am, therefore, wholly unable to perceive wherein the Postmaster General has violated any obligation imposed on him by the contract, which is clear and explicit in its details, and can neither be enlarged nor circumscribed by implication.

The attorneys for the claimants, however, have exerted their ingenuity to discover, if not a breach of contract, at least what they are pleased to characterize as a violation of duty on the part of the Postmaster General. They insist that that officer, not, indeed, by the express terms of the contract, but by implication and the force of his official duty, was bound, in view of the facts in his possession, to recommend the contract to Congress, or, at least, to withhold from that body the expression of any opinion of his own which might be likely to prejudice the same, and that his failure so to act must be taken and construed to be an abrogation of the contract by him. I certainly am unable to appreciate the force of this reasoning; but, to give the claimants the full benefit of their position, I quote from their memorial to Congress, as follows:

"Thus duly apprised of the progress of the contractors, and thus informing them of his sentiments, and encouraging the enormous expense they were assuming, the Postmaster General, in his annual report in December, 1853, unmindful of all this and without regard to the good faith which ought to be preserved in every department, without regard to the heavy expenditures and liabilities of the contractors, without regard to the evidence and facts which had come to his knowledge, and without regard to the truth and candor which should characterize his communications to Congress, submitted the

remark cited above in his annual report, and at the same time withheld the contract and estimates, thereby annulling the contract by withholding from Congress the documents to act upon, and preventing action, moreover, by the suppression of facts and misrepresentations made at the same time to the representatives of the nation."

It is scarcely within the line of my duty to investigate these grave charges against the late Postmaster General, since those who make them do not attempt to arraign that officer for any violation of the express terms of the contract. Yet, as they seem to cover all of the grounds for complaint upon which they predicate their demand for damages, it may not be improper to examine them briefly. The claimants, in their memorial, do not present any additional facts to those of which I have already given the substance.

The statement that the contract was withheld from Congress by the Postmaster General is shown to be incorrect by the report of the Postmaster General hereinafter quoted. A copy of it was communicated to the Senate March 11, 1853, (within eight days after its execution,) by Postmaster General Campbell. To present fully the action of that officer I quote from his annual report of December, 1853, referred to as above in the memorial, all that relates to this contract:

"On the 3d of March, 1853, Postmaster General Hubbard concluded a contract with Messrs. Carmick & Ramsey, of New York, for \$424,000 per annum, for service semi-monthly from Vera Cruz, Mexico, by Acapulco, San Diego, and Monterey, to San Francisco and back, in thirteen days each way, being an extension of the trips of the New Orleans and Vera Cruz line through Mexico, for the purpose of conveying the mail, and thus making one through line, in sixteen days, between New Orleans and San Francisco, a copy of which was communicated to the Senate on the 11th of March.

"This contract contains a stipulation that it shall not have any validity unless Congress should sanction it by the passage of an appropriation to carry it into effect.

"On the 16th of June the department received a communication from Robert G. Rankin, president of the Ocean Mail and Inland Company, who states that that company is the *real* party to the contract entered into by Messrs. Ramsey & Carmick, and reporting progress towards putting service into execution. To this communication the following reply was sent by me on the 9th of July: 'Your letter of the 15th ultimo came duly to hand. My attention having thus been specially called to the circumstances connected with the contemplated line to the Pacific, *via* Vera Cruz and Acapulco, I feel it my duty, after due deliberation, to inform you that the conditional contract entered into between my predecessor, Mr. Hubbard, and Messrs. Ramsey & Carmick, for the conveyance of the mail over this route, does not meet with my approbation.

"In the first place, as at present advised, I consider the route impracticable for mail purposes. In the second place, the sums of money yearly drawn from the treasury for contracts which have for several years been, and still are, in force for the transportation of mails between the Atlantic and the Pacific are very considerable, amounting to about \$731,868. In view of this fact, and of the many

sections and neighborhoods in the different States which are either greatly restricted in, or deprived altogether of, mail facilities, it appears to me both inexpedient and unjust to go into the expenditure of a still further sum of \$424,000 for the service in question. Moreover, I disapprove of the principle upon which the contract is made. In my opinion, if the Postmaster General has the right to make such a contract at all, it ought to be made without the restriction or limitation contained in yours, by which its force or validity is made to depend upon the passage of an appropriation by Congress to carry it into effect. I am unwilling to recognize any contingency of this kind, because, although the contractors *may, under such conditional arrangement, establish no legal claim for compensation, they may, nevertheless, go on and incur expenses, in the expectation that they will be paid,* and Congress, more from private sympathy than from public policy or justice, be at length induced to yield to a measure to which its prior sanction never could have been obtained.'

"Since that time the department has not heard from the Ocean Mail and Inland Company."

The letter of Mr. Rankin, of November 23, 1853, had not been received by the Postmaster General at the date of this report, it having come to hand, as he subsequently stated, on the 30th day of January, 1854.

I have carefully examined the whole correspondence, together with all the facts presented, in connection with the action of the late Postmaster General, and I am compelled to say that, from the date of the above letter to Mr. Rankin, that officer never in any manner held out any inducements to the contractors or their assignees to proceed in their preparations to execute the contract, when the same should go into effect, or gave out any intimations that the contract would be approved by him; nor does it appear that he was advised that they were making such preparations, until he received the letter of the president of the Mexican Ocean Mail and Inland Company, of June 15, 1853, to which he promptly replied as above.

I do not wish in this to convey the idea that it would in the slightest degree have effected my conclusions in the present investigation, if the bad faith of the Postmaster General had been established as charged, or if he had actually encouraged the expenditures and labor alleged to have been incurred by the contractors in anticipating the action of Congress and preparing to carry out the contract. For however such facts might address themselves to the sympathy and judgment of Congress in an application for *general* relief, they cannot be properly considered as constituting a breach of the written contract for which alone I have the power to award damages.

But I can discover nothing in the conduct of the late Postmaster General in connection with this matter which I would be justified in pronouncing either illegal, improper, or unjust; and the proposition that that officer was bound to present a contract for the sanction of Congress, and to insist upon its approval by that body, or to remain silent when it did not meet his own approbation as the officer in charge of that particular department to which the business in question belonged, cannot be recognized as sound either in law, policy, or good

morals. As an officer of the government, it was his sworn duty to protect its interests, and had he failed to do so he would have grossly violated that duty. In this matter he was in the condition of the private agent who may have been charged with the duty of making a contract for and in behalf of his principal, but which was to have no force until approved by the principal himself. In such case, if the agent should discover, after executing such conditional contract, that the enterprise was not a proper one for the principal to engage in, and that it would operate greatly to his injury to approve and carry out the contract, it would certainly be his duty, as a faithful agent, to apprise his principal of the fact; and a failure to do so would render him justly amenable for so great an abuse of the power which, by the laws governing that relation, had been reposed in him.

Taking, then, the facts as stated by the claimants themselves, and giving all the force to their views which they seem to deserve, I cannot perceive wherein the mail contract of Messrs. Carmick & Ramsey has ever been abrogated by the Postmaster General in any of its terms or conditions. The contract stands as perfect, as unbroken and entire as it stood on the day it was entered into and signed by the parties.

If Congress, at its next session, sees proper to pass the necessary appropriation to carry it into effect, that act will bring the contract into full life and validity; and it certainly seems strange, after the plausible showing by the claimants of the vast profit to themselves and advantages to the country which were so confidently expected to result from the execution of this contract if it had gone into effect, that they have not sought to secure the approval of Congress, and thus bring it into life, at some one of the sessions of Congress which have ensued since it was made.

The claimants present a *pro forma* account of estimated receipts and expenditures, showing that from passengers and freight *alone* they expected to realize a profit of \$31,705 33 per month, after paying all expenses, and without reference to their mail contract. Surely, if they could have realized so large a profit by their private business alone, it can hardly be supposed that they would abandon the enterprise simply because they could not double their profits by obtaining a government contract for transporting the mails. May it not be that Congress, like the late Postmaster General, has failed to appreciate the practicability and advantages of this great national enterprise? If so, the late Postmaster General was not alone responsible for its abrogation, if abrogated it has been. And why should the contractors make the single point that one Postmaster General only has failed to perform his duty? Mr. Campbell was no more bound by the terms of that contract to insist on its approval by Congress, than is the present Postmaster General, and it was no more abrogated by the one than it has been by the other.

I am gratified to be able to again refer to the opinion of the present Attorney General, given as aforesaid in this case, as corroborating and fully sustaining these views.

Judge Black says: "Was the contract abrogated by the Postmaster General? Certainly not. There is no act of that officer which can

possibly be so construed. He did not bind himself and his successors to recommend the ratification of the contract by Congress. It was his duty to express his honest conviction in his report, and it would have been gross misbehavior to conceal it.

“Nor was there anything inconsistent with the agreement in warning the other parties that they must proceed on their own responsibility; nor in the instructions to the postmasters at New Orleans and San Francisco to let them have no mails without further order from the department. All this was but carrying out the contract, and acting upon it, according to the stipulations which both parties had put into it with their own free will. The government was to incur no responsibility and to be holden for no expense; the contractors were to exercise no rights as such, and to claim no payment until Congress would make an appropriation. The Postmaster General claimed nothing for the government beyond what he bargained for. He warned the contractors against any effort to bind upon the back of the government a burden that no hand except that of Congress should presume to fasten there. He stood upon the very terms of the contract, and only asked of the other parties that they, too, would observe them with equal good faith. He did not change the schedule of other routes in connection, nor order the postmasters to let Carmick & Ramsey have the mails. It was not his duty to do so; for, as those persons had no contract which compelled them to carry a mail, it would have been wrong to let them have it in their charge. Upon the whole, *I am very clear in the opinion that the contract in question never was abrogated, annulled, rescinded, or violated by the Postmaster General, in letter or spirit.*”

Although, in my conclusions, I do not reach the question of damages at all, it may not be improper to advert to that branch of the case, for the single purpose of showing the inconsistency of the demand with the provisions of the law.

Let it be conceded that Congress has decided for me that a certain mail contract did exist, was abrogated by the Postmaster General, and, in consequence, that damages were due. What damages shall I find? Shall I determine that the abrogation of the contract by the Postmaster General prevented Congress from putting it into effect, and therefore award to them the amount of the anticipated profits which they thus lost? If I do this, there still stands the contract, entire, unbroken, and with all of the life and vigor it ever possessed, and Congress at its very next session may pass the required appropriation and carry it into effect, after I shall have declared it dead!

Can I say that Congress did not approve the contract *because* the Postmaster General annulled it, and that it would have been approved if the Postmaster General had not interfered? I have no right to say this, for it may not in fact be true; and unless *absolutely* true, I cannot say that the abrogation of the contract by the Postmaster General *occasioned* the damage to the contractors. Were I to do so, and to make such a fact the basis for awarding to them damages, I would violate the established rule, that the damages to be recovered must always be the natural and proximate consequence of the act complained of—*causa proxima non remota spectatur*.

The proximate, immediate cause of damage in this case would be the non-approval of the contract by Congress—for thereby it was lost; not the repudiation of it by the Postmaster General, for that left it still subject to the approval of Congress.

Nor can I understand how the actual expenditures incurred in the preparation and stocking of the road can be viewed in the light of damages under the contract. It provides for no such expenditures until after the contract shall have gone into effect. Every dollar thus expended was paid, if paid at all, before there was even an opportunity afforded for the approval of the contract by Congress. Was it contemplated, at the time they were incurred, that they would be paid by the government in case the contract should not be approved? Surely not. They were incurred at the risk of the contractors, who well knew they had no contract at the time, and might never have any.

If they had incurred all of these expenses before they had entered into any contract at all with the department, and then had succeeded in obtaining an absolute, unconditional contract, which was afterwards really annulled by the Postmaster General, I do not understand that in such case they would be entitled to damages for the money so expended *prior* to the making of the contract. The government did not ask such preparation to be made; and if a person sees fit to invest his means in a certain description of property with a view of using the same to execute a government contract which he may never obtain, or, obtaining, have taken away from him, he certainly does it at his own risk, and cannot claim that his loss on that account was a necessary consequence of the violation of the contract.

If Messrs. Carmick & Ramsey assumed the risk of preparing to execute a contract which might never be called into existence, they did it knowingly, and at their own peril, and I cannot discover how the risk ever passed from them to the government.

I have not attempted to notice many of the arguments advanced and points made by the claimants and their attorneys, because my conclusions were reached without any necessary reference to them. The determination of a single question disposed of the whole matter, and put an end to the investigation. Repudiating the idea that Congress had determined by law the facts in this case, or intended to do so, it was my duty, first, to inquire whether the contract referred to in the law was so abrogated by the Postmaster General as to make the United States liable to the contractors in damages for such abrogation, and that being decided in the negative, I had no further investigation to make; and it remains for me only to decide that I find nothing due from the United States to Messrs. Carmick & Ramsey under the contract aforesaid.

W. MEDILL, *Comptroller.*

No. 5.

DOYLESTOWN, *June 10, 1859.*

SIR: Your letter, inclosing a copy of the report of Messrs. Billinghurst and Ready in the Carmick & Ramsey case, has been received.

In reply to the inquiries propounded, I answer, that the subject was brought before the Committee on the Judiciary during the last session of the Thirty-fifth Congress, and finally a majority of the committee arrived at the conclusion that the First Comptroller of the Treasury was clearly right in refusing to allow the claim of Carmick & Ramsey for damages, or any part thereof. Being one of that majority, I was requested to prepare a full and comprehensive report, expressing the views of the majority and their conclusion in the premises. As soon as relieved from a press of other business, I entered upon the duty assigned, and would have fulfilled it had my health enabled me to do so. But for some time previous to the adjournment of Congress, having more than once resumed the undertaking, I found myself too unwell to finish the report. Still hoping to be able to do so, this was not mentioned to General Houston, the chairman of the committee, until it was too late for any other gentleman to take charge of the matter; consequently no report was made.

In regard to the report signed by Messrs. Billingham and Ready, I have to say that I never saw it until I found it inclosed in your letter, nor was I before aware it had been presented to the House.

Very respectfully, your obedient servant,

HENRY CHAPMAN.

Hon. WILLIAM MEDILL,
First Comptroller of the Treasury.

No. 6.

Statement of the claim.

PHILADELPHIA, November 13, 1856.

DEAR SIR: Responding to your communication touching the 6th section of the act of Congress for our benefit, approved August 18, 1856, we now beg leave to state—

We claim, as we are advised we may claim lawfully, equitably, and justly, our contract price for the term of the contract, subject only to such abatement or deduction as may be shown; the burden of proof of such abatement, if any, resting on the government.

We need not here recite the consideration agreed, as that is already of record in your office.

Otherwise, we claim, as we are advised we may claim, lawfully, equitably, and justly, the full value of our contract—what it would have been worth to us had we been permitted to give effect to it according to its intent.

The papers herewith submitted exhibit a fair view of the proportions of our claim. They indicate the sources whence full information may be obtained. Their showings may be readily and speedily verified and authenticated, at your citation; or, if required, as conforming more strictly to the rules of evidence, the intelligent authors of these papers, being in New York city, can, at your own call and convenience, be had in

your presence, and thus, face to face, afford you the fullest and most reliable information.

You are the sole judge of the law and the evidence, under such rule of decision as you may yourself prescribe.

We also claim the amount of the account of outlays and expenses in Mexico, as given by Mr. Marsh.

With great respect, we have the honor to be,

EDWARD H. CARMICK,
ALBERT C. RAMSEY.

Hon. ELISHA WHITTLESEY,
First Comptroller, &c.

No. 7.

Amounts paid and still due by the contractors on account of the mail contracts made with the United States Post Office Department for mails between Vera Cruz and San Francisco.

PAYMENTS.

In New York, for charter of steamer Albatross, first trip across with mails	\$9,152 43
For mail coaches, wagons, &c., now in Mexico.....	10,610 95
For expenses of agents, board per diem, &c.....	2,273 00
For office expenses, salaries, &c.....	8,133 85
For contingent expenses.....	2,656 54
Expenses in Mexico for horses, mules, estafette mails, drivers, duties, &c., freight on rolling stock, wages, rents, office fixtures, stationery, feed for animals, and office expenses.....	23,113 28
	<hr/>
	55,940 05

INDEBTEDNESS.

In New York.

Two notes in favor of I. S. and E. A. Abbott...	\$4,554 82
Open account due	455 30
Three notes in favor of Eaton, Gilbert & Co....	3,657 02
Four notes in favor of the Atlantic Insurance Company	640 00
One note in favor of I. H. Cotton.....	230 00
Acceptance due I. N. Jeroloman.....	666 82
Acceptance due M. and J. Brown.....	400 00
Acceptance due H. T. Stewart & Co.....	378 55
Open account due Francis's Life-boat Company	265 80
Open account due G. F. Nesbit & Co.....	175 00
Open account due Charles Bowes.....	100 00

Open account due E. H. Carmick.....	\$30 00
Open account due Hall, Clayton & Co.....	150 00
Open account due J. W. Blunt.....	40 00
Open account due for office rent.....	450 00
President, R. G. Rankin, for salary.....	2,676 83
Secretary and treasurer, W. Bowes	1,223 80
Clerk, F. W. Rankin.....	125 00
Petty accounts, viz: coal, cleaning office, pa- pers, &c.....	100 00
	<hr/> \$16,318 94

In Mexico.

Two drafts in favor of G. L. Hammekin.....	4,600 00
Three drafts in favor of N. Davidson.....	11,000 00
Two drafts in favor of H'y A. Mejia.....	1,564 80
One draft in favor of S. C. Ramsey.....	960 00
One note due J. S. Navarro.....	3,585 00
One note due A. Becherel.....	1,000 00
Open account due N. Davidson.....	7,802 81
Open account due G. L. Hammekin	4,140 58
Open account due L. S. Hargous.....	800 00
Open account due Smith Rider.....	359 12
Open account due Juan Parra.....	268 29
Open account due C. Markoe.....	266 79
Open account due Harris & Morgan.....	41 20
Open account due S. Tyler.....	55 00
Damages, interest, and expenses on \$36,443 59	4,939 77

	41,383 36
Less secured by hypothecation of rolling stock,	18,524 81
	<hr/> 22,858 55

SUSPENDED ACCOUNTS.

Expenses prior to mail contract, for procuring grants in Mexico, which have been assumed by the contractors....	18,000 00
	<hr/> 113,117 54

CITY, COUNTY, AND STATE OF NEW YORK.

On this 27th day of November, 1856, before me personally appeared S. William Marsh, of the said city, who, being by me duly sworn, says: That he is personally acquainted with the facts set forth in the foregoing and annexed statement; that he was the general accountant and disbursing agent in Mexico, and is intimately acquainted with the facts set forth in the foregoing statement, and believes them to be just and true.

S. WILMER MARSH.

Subscribed and sworn to before me, this 27th day of November, 1856.

MONTGOMERY GIBBS,
Notary Public, No. 5 Wall street.

NEW YORK, *August 23, 1856.*

SIR: I understand an appropriation has been made by Congress to pay the damages incurred by the parties holding the mail contract between New Orleans and San Francisco, *via Vera Cruz and Acapulco.* "*The Mexican Ocean Mail and Inland Company,*" by covenants and full powers of attorney with and from Messrs. Ramsey & Carmick, the ostensible contractors, incurred the expenditures and liabilities on account of this contract, and, so far as Postmaster General Campbell's hostility would permit, performed the conditions of the contract for several months, until stopped by him. Messrs. Ramsey & Carmick have also, personally and extrinsic of the company, incurred large expenditures. At the proper time the Mexican Mail Company are prepared to show vouchers, &c., for their expenditures, with the full powers from Messrs. Ramsey & Carmick for receiving the appropriation.

Your obedient servant,

ROBERT G. RANKIN,

President of Mexican Ocean Mail and Inland Company.

Hon. ELISHA WHITTLESEY,

First Comptroller, Treasury Department, Washington, D. C.

NEW YORK, *September 4, 1856.*

DEAR SIR: The Mexican Ocean Mail and Inland Company, or the receiver thereof, are prepared to furnish, at any time they may be notified, the evidence of damages sustained by the abrogation of the New Orleans, Vera Cruz, and San Francisco mail contract, and to furnish their books in evidence of the fulfillment of the contract by them for and on account of Messrs. Ramsey & Carmick. The whole expenditures and damages were incurred by this company under powers and contracts with Messrs. Ramsey & Carmick; the original contracts and powers being now in possession of the company, ready for exhibition when demanded.

Your obedient servant,

ROBERT G. RANKIN,

President of Mexican Ocean Mail and Inland Company.

Hon. ELISHA WHITTLESEY,

*First Comptroller, &c., Treasury Department,
Washington, D. C.*

Pro forma account of receipts and expenses for a weekly line of twenty wagons or stages between Vera Cruz and Acapulco.

RECEIPTS.		
It appears by official statement, taken from the books of the Panama Railroad Company, that the average number of passengers passing that road per year, for five successive years, was.....	30,993	
And from the books of the Nicaragua Transit Company the average number of passengers per year was.....	20,163	
	<u>51,156</u>	
Average per month.....	<u>4,789</u>	
Of which we assume that the great advantages of saving in time, avoidance of the tropics, and less distance by sea, would give us at least two fifths ($\frac{2}{5}$) of the passengers, or 1,916 per month, at \$50 each.....		\$95,800 00
It also appears that the average amount of gold by the Panama route, per annum, was.....	\$31,524,397	
By the Nicaragua route, per annum, was...	12,000,000	
	<u>43,524,397 00</u>	
Average per month.....	<u>3,627,033</u>	
Of which we assume that we should have carried at least two thirds, in consequence of the certainty of the drafts being conveyed by us, and that thereby they would reach the Atlantic cities at least five to ten days in advance of the gold, provided it continued to go by the usual route of Panama and Nicaragua—which, however, no banking-house would permit, and, of necessity, therefore, the gold would follow the drafts—two thirds = \$2,418,022, at one quarter per cent. only, the same price as charged for the transit of Panama, a distance of only 40 miles.....		6,045 00
The average of Mexican silver passing over the route is at least \$1,250,000 per month, and on which the charge paid, independent of duties, is $1\frac{1}{4}$ per cent. We assume that we would have taken the whole of this, as we would have done it at 1 per cent., a saving to the shippers of $\frac{1}{4}$ per cent.....		12,500 00
Express freight, charging no higher rate than is charged by the Panama Railroad Company, averaging per month.....		7,651 00
Contract for Mexican mail per month.....		4,000 00
Freighting between Vera Cruz and Mexico, averaging yearly \$2,000,000, of which we assume we would have at least $12\frac{1}{2}$ per cent., or, per month.....		20,833 33
This service being performed on the off days of mail and passenger service.....		<u>146,829 33</u>

Pro forma account of receipts and expenses—Continued.

EXPENDITURES.		
There are on the route 44 stations, 20 teams each—8 animals for each team=7,040 animals, costing to maintain per month \$7 each.....		\$49,280 00
It would require for the service—		
440 grooms, at \$30 per month.....		13,200 00
120 drivers, at \$100 per month.....		12,000 00
120 servants at \$60 per month.....		7,200 00
Shoes and shoeing 7,040 animals, at \$2 per month.....		14,080 00
2½ per cent. wear and tear on 7,040 animals, costing \$30 each.....	\$211,200 00	5,280 00
2½ per cent. wear and tear on 880 sets of harness, at \$72 each.....	63,360 00	1,584 00
2½ per cent. wear and tear on 120 wagons, at \$500 each....	60,000 00	1,500 00
Tolls on each wagon, \$50 per month.....		6,000 00
Office rent, agents, clerks, &c., per month.....		5,000 00
		115,124 00
Balance of receipts over expenditures, leaving profits of one month's service.....		31,705 33
		146,829 33

Samuel W. Marsh, of the city of New York, No. 19 Beaver street, personally appeared before me, and being sworn according to law, saith: That he is personally acquainted with the facts above set forth, and, having been the general accountant and disbursing agent in Mexico, is intimately acquainted with the facts set forth, and believes them to be just and true.

SAMUEL W. MARSH.

Subscribed and sworn to before me, in the city of New York, this 11th day of November, 1856.

Witness my hand and official seal.

JOHN BISSELL. [L. s.]

Liens and injunctions against claim of Carmick & Ramsey.

NEW YORK, August 17, 1856.

DEAR SIR: We learn that Congress has appropriated some three hundred thousand dollars for the payment of damages to E. A. Carmick and others for the violation of postal contracts for transportation of the mail from New Orleans to San Francisco, *via* Vera Cruz and Acapulco. These contracts having been assigned to the Mexican Ocean Mail and Inland Company of this city, that company will be entitled to those damages. Our object is to give notice to the proper bureau of the government, which we understand to be that of the Fourth Auditor, that we have recovered judgments against that company for considerable sums, and have suits pending for other large claims, which are undetermined, and which are unsatisfied and unpaid, and that the said company is insolvent, and to desire that such damages should not be paid over to the said company or its agents until such claims are adjusted and provided for.

If needful, we will furnish a statement of the amount of said judgments and claims, to the end that such amount may be retained for the use of those we represent.

Judge Wm. Kent has been duly appointed the receiver of the said company, and all its rights are therefore vested in him, and he alone will be entitled to its funds and property.

If this notice should be addressed to any other department of the government, please to give it the proper direction.

Respectfully and faithfully yours,

MANN & RODMAN.

Hon. A. O. DAYTON,

Fourth Auditor, Washington, D. C.

NEW YORK, August 18, 1856.

DEAR SIR: An appropriation has been made for the payment to E. H. Carmick and others of the damages sustained by reason of the refusal of Postmaster General Campbell to perform certain contracts for the transportation of mails through Mexico to San Francisco.

These contracts, at the time of the breach of the same, were held by the Mexican Ocean Mail and Inland Company of this city, to which company they were regularly assigned by Carmick and others, the contractors subject, however, to a partial assignment in favor of the Pacific Mail Steamship Company.

On behalf of certain of the stockholders of the Mexican Ocean Mail and Inland Company, I protest against the payment of any portion of the appropriation to E. H. Carmick and his associates.

Respectfully, your obedient servant,

P. W. TURNEY.

Hon. JAMES GUTHRIE,

Secretary of the Treasury.

NEW YORK, *August 25, 1856.*

MY DEAR SIR: I beg to commend to your favorable notice Thomas H. Rodman, Esq., who [who] will hand to you this letter. Mr. Rodman is my partner in business and my son-in-law, a young man in whom I place the fullest and most implicit confidence. You may, therefore, rely upon him in all things.

Faithfully and ever your friend and obedient servant,

A. MANN, JR.

Hon. E. WHITTLESEY,
First Comptroller, &c., &c.

110 BROADWAY, NEW YORK,
August 25, 1856.

DEAR SIR: In the civil appropriation bill there is a provision for the payment to E. H. Carmick and A. C. Ramsey of the damages sustained by them by reason of the refusal of Postmaster General Campbell to carry out the contract with them for the transportation of mails through Mexico to San Francisco, *via* Vera Cruz and Acapulco.

This contract was regularly assigned by them to the Mexican Ocean Mail and Inland Company of this city in the early part of the year 1853, and was held by the company at the time of the breach of the contract and at the time of their insolvency.

Judge William Kent, of this city, has been appointed the receiver of the company, and as such receiver has succeeded to all its rights in the contract in question.

Messrs. Carmick & Ramsey have no interest in the same, except, perhaps, as stockholders of the corporation.

I am the representative and attorney of stockholders of the same corporation to a large amount, and in their behalf I object to the payment of any money whatever to Messrs. Carmick & Ramsey on account of the contract in question.

Respectfully, your obedient servant,

P. W. TURNEY.

Hon. ELISHA WHITTLESEY,
Comptroller, &c., Washington, D. C.

NEW YORK, *August 26, 1856.*

DEAR SIR: The contract with E. H. Carmick and Albert C. Ramsey, for the transportation of mails from Vera Cruz, in Mexico, to San Francisco, dated the 15th day of February, 1853, on account of which a provision has been made in the civil appropriation bill, was held by Carmick & Ramsey for the use of the Mexican Ocean Mail and Inland Company, and as and for the sole and exclusive property of such company.

I have been appointed the receiver of the estate and effects of such company, and as such receiver am entitled to be paid all damages

which have arisen from the refusal of the Postmaster General to carry out the contract.

Respectfully, your obedient servant,

WILLIAM KENT,
*Receiver of the M. O. M. & I. Company,
per P. W. Turney, his attorney.*

Hon. ELISHA WHITTLESEY,
Comptroller, &c., Washington, D. C.

[Private.]

EVERETT HOUSE,
New York, September 18, 1856.

MY DEAR SIR: In the General Post Office appropriation bill of the last session a provision was inserted referring Mr. E. H. Carmick's claim to you for adjudication. Will you do me the kindness to let me know if you have yet made a decision in the case, (Carmick's,) and if not, if it will probably soon be disposed of.

Very truly, your friend and servant,

GEO. W. BREGA.

Hon. ELISHA WHITTLESEY.

45 WALL STREET, NEW YORK, *October 1, 1856.*

SIR: We see by the sixth section of the Post Office act, No. 56, that you are required to pay to Messrs. Carmick & Ramsey whatever may be awarded to them by the First Comptroller of the Treasury on account of the abrogation by the Postmaster General of their contract to carry the mail on the Vera Cruz, Acapulco, and San Francisco route, dated the 15th February, 1853.

We have the honor to inclose copies of two agreements between Messrs. Carmick & Ramsey, and the Mexican Ocean Mail and Inland Company, by which you will see that Messrs. Carmick & Ramsey received these contracts for the sole use and benefit of that company, who are the only parties that actually suffered by reason of the action of the Postmaster General.

In consequence of that action the corporation became insolvent, and its effects passed into the hands of the Hon. William Kent, of this city, appointed receiver under decree of court.

We lay these papers before you in his name, asking that they be regarded as a power to the company, and through the company to its official assignee, to receive whatever sums may be awarded to Messrs. Carmick & Ramsey.

The original instruments will be at your service when called for.

We have the honor to be, sir, very respectfully, your obedient servants,

EATON & DAVIS,
Attorneys-at-law for the Receiver.

Hon. SECRETARY OF THE TREASURY,
Washington, D. C.

To all to whom these presents shall come, greeting: Know ye, that it is hereby covenanted, granted, and agreed between Albert C. Ramsey and Edward H. Carmick, of the one part, and the Mexican Ocean Mail and Inland Company, of the other part, in the manner following:

For that whereas Albert Ramsey, formerly of the State of Pennsylvania, has heretofore procured and obtained from the government of the republic of Mexico, or of the government of certain of the States of said republic, sundry grants, privileges, and franchises in respect to the navigation of the river Mescala, the construction of roads, and the transportation of mails in said republic, which said grants, privileges, and franchises were procured for and on behalf of sundry persons associated in the United States, and now represented by The Mexican Ocean Mail and Inland Company; and whereas the said The Mexican Ocean Mail and Inland Company have assumed the grants, privileges, and franchises aforesaid, and are proceeding to the execution and development of the same; and whereas, for the better and more perfect assurance and development of the same, the said Albert C. Ramsey and Edward H. Carmick have procured from the United States government a contract for carrying the mails of the United States from Vera Cruz, in Mexico, to San Francisco, in the United States, bearing date the fifteenth day of February, one thousand eight hundred and fifty-three: Now, therefore, the said Albert C. Ramsey and Edward H. Carmick, for themselves, their heirs, executors, administrators, and assigns, respectively, doth each for himself, and not the one for the other, severally covenant, promise, and agree to and with The Mexican Ocean Mail and Inland Company, that they have held, and do now hold, and will continue to hold, the said contract, and any extension or renewal of it, to and for the use of The Mexican Ocean Mail and Inland Company and their successors and assigns, as and for their sole and exclusive property, together with all the issues and profits therefrom, or payments for the same, or any future increase of service under it; and that they will, in due form of law, make and execute, under the appointment in writing of the said The Mexican Ocean Mail and Inland Company, all, every, and whatever contract, covenant, agreement, or instrument that may be necessary for the development, and prosecution, and operation of a through mail line from New Orleans to San Francisco; and that the said contract shall be for the use, benefit, and profit of the said The Mexican Ocean Mail and Inland Company, their successors and assigns; and that all and every payment or appropriation for or on account of said contract, or for the enlargement of the service under it, or for any part thereof, shall be held, received, and taken by them for and on account of the said The Mexican Ocean Mail and Inland Company, and shall be paid over to their order or appointment, or as they may in writing direct; and that they will do every necessary act or thing whereby this agreement may be in good faith fulfilled and executed by them, or either of them.

And the said The Mexican Ocean Mail and Inland Company doth covenant, promise, and agree that the said Albert C. Ramsey and Edward H. Carmick shall be held free and harmless of and from all loss and damage by reason of the non-performance of any of the

conditions of the said contract, by or on the part of those who may be legally chargeable with the performance or execution of said contract.

In witness whereof, the parties hereto have in duplicate respectively and interchangeably set their seals, and caused the same to be duly subscribed and attested, this seventeenth day of March, in the year of our Lord one thousand eight hundred and fifty-three, in the city of New York.

ALBERT C. RAMSEY, [L. s.]
 EDWARD H. CARMICK, [L. s.]
 THE MEXICAN OCEAN MAIL
 AND INLAND COMPANY, [L. s.]
 ROBERT G. RANKIN,
President.

Witness: SAM. W. MARSH.

DUPLICATE.

To all whom these presents shall come, greeting: Know ye that it is hereby covenanted, granted, and agreed, between The Mexican Ocean Mail and Inland Company of the one part, and Albert C. Ramsey of the other part, in the manner following: For that whereas the said Albert C. Ramsey, formerly of the State of Pennsylvania, has heretofore procured and obtained from the government of the republic of Mexico, or the government of certain of the States of the said republic, sundry grants, privileges, and franchises in respect to the navigation of the river Mescala, the construction of roads, and the transportation of mails in said republic; which said grants, privileges, and franchises were procured for and on behalf of sundry persons associated in the United States, now represented by The Mexican Ocean Mail and Inland Company: And whereas the said The Mexican Ocean Mail and Inland Company have assumed the grants, privileges, and franchises aforesaid, and are proceeding to the execution and development of the same: And whereas, for the better and more perfect assurance and development of the same, the said Albert C. Ramsey and Edward H. Carmick have procured from the United States government a contract for carrying the mails of the United States from Vera Cruz, in Mexico, to San Francisco, in the United States, bearing date the fifteenth day of February, one thousand eight hundred and fifty-three: And whereas the said Edward H. Carmick, in fulfillment of the same design of the better assurance and development of said grants, privileges, and franchises, has procured, in his own name, a contract bearing date the fifteenth day of February, one thousand eight hundred and fifty-three, for the transportation of the United States mail from New Orleans to Vera Cruz: And whereas both the aforesaid contracts have in fact been procured for the benefit of and for the sole enjoyment and profit of the said The Mexican Ocean Mail and Inland Company: Now, therefore, the said Albert C. Ramsey, for himself and his legal representatives, doth covenant and agree that he will well and faithfully transport said mails across the republic of Mexico, from Vera Cruz to San Francisco, according to the

tenor, conditions, and liabilities of said United States contracts, so that the mails shall be carried according to the intents and purposes of said contract, and in fulfillment of the object of the said company. And further, that he will, when requested so to do, by any letter of instructions to such effect, do, perform, and execute all, each and every matter and thing requisite and necessary to be done for the execution of said mail contracts and in furtherance of the interests of the company; but all such duties and performances shall be at the cost, charge, and expense of the said The Mexican Ocean Mail and Inland Company.

And the said The Mexican Ocean Mail and Inland Company, for themselves and their successors, do covenant and agree with the said Albert C. Ramsey that they will furnish the said Albert C. Ramsey the means and facilities for such mail transportation and other purposes as may be specified in any letter of instructions to that effect, and will save and hold him harmless from loss or damage by reason of the faithful performance of any of the duties specified in any such letter of instructions; and further, that they will pay to the said Albert C. Ramsey the allowance for monthly expenses that may be agreed upon between the parties hereto.

In witness whereof, the said parties have executed the same in duplicate this fifth day of May, one thousand eight hundred and fifty-three.

ROBERT G. RANKIN, [SEAL.]
President, &c.

ALBERT C. RAMSEY. [SEAL.]

Sealed and delivered in the presence of—

PIERRE M. IRVING.

UNITED STATES OF AMERICA, STATE OF NEW YORK, } ss:
City and County of New York,

On this twelfth day of May, one thousand eight hundred and fifty-three, before me, Pierre M. Irving, notary public duly commissioned and sworn, dwelling in the city of New York, personally came Robert G. Rankin, president of The Mexican Ocean Mail and Inland Company, and Albert C. Ramsey, the individuals who executed the within agreement, and severally acknowledged that they executed the same. And the said Robert G. Rankin, being by me duly sworn, deposes and says that he is the president of The Mexican Ocean Mail and Inland Company, that the seal affixed to the within agreement, opposite to his signature, is the corporate seal of the said company, and was affixed to the said agreement by order of the said company, for the purposes therein mentioned; and that he, by like order, did subscribe his name thereto as president of the said company.

In testimony whereof, I have hereunto subscribed my name and
[SEAL.] affixed my notarial seal, the day and year above written.

PIERRE M. IRVING,
Notary Public.

NEW YORK, *October 3, 1856.*

MY DEAR SIR: We are informed here that a bill was passed by the last Congress directing the Secretary of the Treasury to pay to A. C. Ramsey whatever amount of loss he incurred by reason of a contract between the Post Office Department and him to convey the mail across Mexico up to San Francisco. As all loss in that respect was borne by a company here, the stockholders in which have been sued for the debts representing this loss and adjudged to pay the amount, I take the liberty of writing to you to inquire if any movement has yet been made by Mr. Ramsey towards obtaining the money.

My father-in-law, Mr. Stetson, here, has been mulcted in \$10,000 as one of the stockholders, and if there be any way that he can be reimbursed, I know that your kindly feelings towards him would induce you to give him all legitimate aid.

Please consider this as private.

Yours, truly,

JOHN E. DEVELIN.

Hon. P. G. WASHINGTON, &c., &c.

[Private.]

110 BROADWAY, NEW YORK, *March 24, 1857.*

DEAR SIR; We understand that Messrs. Carmick & Ramsey are now making proof before you of the damages resulting from the refusal of Postmaster General Campbell to carry out the contract with them for the transportation of mails between Vera Cruz and San Francisco.

Permit us to remind you of the promise which you made us last year, to inform us of the result of your deliberations in the matter in time to enable us to take measures, if any should be deemed advisable, to prevent the diversion of the award from the parties equitably entitled to the same.

Respectfully, your obedient servants,

VARNUM & TURNEY.

Hon. ELISHA WHITTLESEY,
Comptroller, &c.

NEW YORK SUPREME COURT, *County of New York.*

William H. Aspinwall, Robert B. Coleman, and Charles A. Stetson, *against* Edward H. Carmick, Albert C. Ramsey, The Mexican Ocean Mail and Inland Company, and William Kent, receiver of the property and estate of The Mexican Ocean Mail and Inland Company.

The complaint of William H. Aspinwall, Robert B. Coleman, and Charles A. Stetson, of the city of New York, represents: that some time in or about the month of March, one thousand eight hundred and fifty-three, a contract or agreement was entered into between the

United States of America and Albert C. Ramsey and others, in the words and figures following, to wit:

This article of contract, made the fifteenth day of February, in the year one thousand eight hundred and fifty-three, between the United States, acting in this behalf by their Postmaster General, and Albert C. Ramsey and Edward H. Carmick, William H. Aspinwall, and Edwin Bartlett, of the city of New York, Silas C. Herring, Elihu Townsend, Simeon Draper, and R. B. Coleman, of the same place, witnesseth: That whereas, by an act of Congress passed March 3, 1845, entitled "An act to provide for the transportation of the mail between the United States and foreign countries, and for other purposes," the Postmaster General is authorized to contract for the transportation of the United States mail between any of the ports of the United States and a port or ports of any foreign power, whenever, in his opinion, the public interest will thereby be promoted: And whereas, by another act of Congress passed March 3, 1851, entitled "An act to establish certain post roads in the United States and the Territories thereof," the Postmaster General is authorized to enter into contracts, for a period not longer than four years, for transporting through any foreign countries the mails of the United States, and that in making such contracts the Postmaster General shall be bound to select the speediest, safest, and most economical route: And whereas, notice has been given by advertising, in accordance with the directions of said act, for inviting proposals for mail contracts under and by virtue of the acts aforesaid: And whereas, Albert C. Ramsey and Edward H. Carmick have been accepted, according to law, as contractors for transporting the mail on route No. 9, from Vera Cruz, *via* Acapulco, to San Francisco and back, twice a month, according to the schedule hereinafter mentioned, in thirteen days each way, being an extension of two of the trips on the New Orleans and Vera Cruz line through Mexico for the purpose of conveying the mails, and thus making one through line in sixteen days between New Orleans and San Francisco, at and for the sum of four hundred and twenty-four thousand dollars per year, for and during the term commencing from the time Congress shall ratify this contract, and ending four years from that date, with the right reserved to the Postmaster General to continue it one year longer, at the same terms: Now, therefore, the said Albert C. Ramsey and Edward H. Carmick, contractors, and Silas C. Herring, Elihu Townsend, Simeon Draper, Robert B. Coleman, William H. Aspinwall, and Edwin Bartlett, their sureties, do jointly and severally undertake, covenant, and agree with the United States, and do bind themselves:

1. To carry said mail within the times fixed in the annexed schedule of departures and arrivals, and so carry until said schedule is altered by the authority of the Postmaster General of the United States, as hereinafter provided, and then to carry according to said altered schedule.

2. To carry said mail in a safe and secure manner, free from wet or other injury, in weather-proof bags and vehicles on the land route, and in a separate and convenient apartment on shipboard, to be suitably fitted up, under order of the department, at the expense of the con-

tractors, for the assorting and safe-keeping of the mails, and for the sole and exclusive occupation, use, and accommodation of the Post Office Department and its mail agent, if the Postmaster General shall require it, for the use and accommodation of the mail and mail agent, and such mail agent is to be conveyed without further charge.

In case the contractors fail to furnish such suitable accommodation, the department shall have the right to provide the bags, vehicles, or other suitable accommodations, at the expense of the contractors.

3. To take the mail and every part of it from, and deliver it and every part of it into, the post office at San Francisco, and to and from the mail steamers at Vera Cruz, on the New Orleans and Vera Cruz line; and also to deliver and receive the mails at San Diego and Monterey regularly, by each trip going and returning, as is now done by the "Pacific Mail Steamship Company."

They also undertake, covenant, and agree with the United States, and do bind themselves jointly and severally, as aforesaid, to be answerable for the person to whom the said contractors shall commit the care and transportation of the mail, and [be] accountable to the United States for any damages which may be sustained by the United States through his unfaithfulness or want of care; and that the said contractors will discharge any carrier of said mail whenever required to do so by the Postmaster General; also, that they will not transmit by themselves or their agents, or be concerned in transmitting, commercial intelligence more rapidly than by mail, and they will not carry out of the mail letters or papers which should go by post; and that they will not knowingly convey any person carrying on the business of transporting letters or other mail matter, without the consent of the department; and further, that the said contractors will convey, without additional charge, post office blanks, mail bags, and the special agents of the department, on the exhibition of their credentials.

They further undertake, covenant, and agree with the United States, that the said contractors will collect quarterly, if required by the Postmaster General, of postmasters on said route, the balances due from them to the General Post Office, and faithfully render an account thereof to the Postmaster General on the settlement of quarterly accounts, and will pay over to the General Post Office all balances remaining in their hands.

For which services when performed, the said Albert C. Ramsey and Edward H. Carmick, contractors, are to be paid by the said United States the sum of four hundred and twenty-four thousand dollars a year, to wit: quarterly in the months of May, August, November, and February, through the postmasters on the route or otherwise, at the option of the Postmaster General of the United States; said pay to be subject, however, to be reduced or discontinued by the Postmaster General as hereinafter stipulated, or to be suspended in case of delinquency.

It is hereby stipulated and agreed by the said contractors and their sureties, that the Postmaster General may increase the service or change the schedule, he allowing a *pro rata* increase of compensation within the restrictions imposed by law for the additional service required; but the contractors may, in case of increased service or change

of schedule, relinquish the contract, on timely notice, if they prefer it to the change.

It is hereby also stipulated and agreed by the said contractors and their sureties, that in all cases there is to be a forfeiture of the pay of a trip when the trip is not performed, and of not more than three times the pay of a trip when the trip is not duly performed and no sufficient excuse for the failure is furnished; a forfeiture of at least one fourth part of it when the running is so far behind time as to lose connection with a depending mail, unless it is shown that the same was not caused by neglect, or want of proper skill, or misconduct; and a forfeiture of a due proportion of it when a grade of service is rendered inferior to the mode of conveyance above stipulated; and that these forfeitures may be increased into penalties of a higher amount, according to the nature or frequency of the failure and the importance of the mail, also, that fines may be imposed upon the contractors unless the delinquency be satisfactorily explained to the Postmaster General in due time, for failing to take from or deliver at a post office or a steam vessel, the mail, or any part of it; for suffering it to be wet, injured, lost, or destroyed; for carrying it in a place or manner that exposes it to depredation, loss, or injury, by being wet or otherwise; for refusing, after demand, to carry a mail in any vessel or other vehicle which the contractors run or are concerned in running on the route beyond the number of trips above specified; or for not arriving at the time set in the schedule, unless not caused by neglect or want of proper skill, or misconduct. And for setting up or running an express to transmit letters or commercial intelligence in advance of the mail, or for transporting knowingly or after being informed, any one engaged in transporting letters or mail matter in violation of the laws of the United States, a penalty of five hundred dollars may be exacted for each offense and for each article so carried.

And it is hereby further stipulated and agreed by the said contractors and their sureties that the Postmaster General may annul the contract for repeated failures; for violating the post office laws; for disobeying the instructions of the department; for refusing to discharge a carrier or any person having charge of the mail by his direction when required by the department; for assigning the contract without the consent of the Postmaster General; for setting up or running an express as aforesaid; or for transporting persons conveying mail matter out of the mail as aforesaid, or whenever the contractors, or either of them, shall become a postmaster, assistant postmaster, or member of Congress. And this contract shall in all parts be subject to the terms and requisitions of an act of Congress passed on the twenty-first day of April, in the year of our Lord one thousand eight hundred and eight, entitled "An act concerning public contracts."

And it is hereby further stipulated and agreed by the said contractors that the steam vessels for the service between San Francisco and Acapulco shall be of a class contemplated by the act of Congress passed March 3, 1845, entitled "An act to provide for the transportation of the mail between the United States and foreign countries, and for other purposes," and that the same shall be delivered to the United States or their proper officers, on demand being made, for the purpose of

being converted into vessels-of-war, according to the tenor and terms of the said act.

And it is hereby further expressly understood that this contract is to have no force or validity until it shall have received the sanction of the Congress of the United States, by the passage of an appropriation to carry it into effect.

In witness whereof the Postmaster General has caused the seal of the Post Office Department to be hereto affixed, and has attested the same by his signature; and the said contractors and their sureties have hereunto set their hands and seals the day and year set opposite their names respectively.

S. D. HUBBARD,	[SEAL.]	March 3, 1853.
<i>Postmaster General.</i>		
WM. H. ASPINWALL,	[SEAL.]	March 3, 1853.
EDWIN BARTLETT,	[SEAL.]	March 3, 1853.
By WM. H. DAVIDGE, <i>their Att'y.</i>		
ALBERT C. RAMSEY,	[SEAL.]	February 25, 1853.
EDWARD H. CARMICK,	[SEAL.]	February 25, 1853.
SILAS C. HERRING,	[SEAL.]	February 25, 1853.
ELIHU TOWNSEND,	[SEAL.]	February 25, 1853.
SIMEON DRAPER,	[SEAL.]	February 25, 1853.
R. B. COLEMAN,	[SEAL.]	February 25, 1853.
THE MEXICAN OCEAN MAIL		
AND INLAND COMPANY,	[SEAL.]	February 25, 1853.
By ROBERT G. RANKIN, <i>President.</i>		

Signed, sealed, and delivered by the Postmaster General, in the presence of—

JAMES LAWRENCE,
R. T. McLAIN.

And by the other parties hereto in the presence of—

J. B. NOTT, witness for A. C. Ramsey, S. Draper, R. B. Coleman,
and Edward H. Carmick.

EDWARD S. GUILD, witness to S. C. Herring.

Witness to Wm. H. Davidge's signature, as attorney of William H. Aspinwall and Edwin Bartlett—

JAMES LAWRENCE,
R. T. McLAIN.

Witness to R. G. Rankin's signature—

JNO. T. HOWARD.

I hereby certify that I am well acquainted with Albert C. Ramsey, and Edward H. Carmick, and Silas C. Herring, Elihu Townsend, Simeon Draper, and R. B. Coleman, and the condition of their property; and that after full investigation and inquiry I am well satisfied that they are good and sufficient sureties for the amount in the foregoing contract.

WM. V. BRADY,
Postmaster in New York.

The schedules of departures and arrivals.

Leave Vera Cruz on the 4th and 17th of each month;
 Arrive at Acapulco by the 9th and 22d of each month;
 Leave Acapulco on the 9th and 22d of each month;
 Arrive at San Francisco by the 17th and 30th of each month.
 Leave San Francisco on the 8th and 24th of each month;
 Arrive at Acapulco by the 16th and 1st of each month;
 Leave Acapulco on the 16th and 1st of each month;
 Arrive at Vera Cruz by the 21st and 6th of each month. -

as by the said contract, to which the plaintiffs refer, will, upon reference, appear.

The plaintiffs further show, upon information and belief, that the Mexican Ocean Mail and Inland Company was, in the month of January, 1853, incorporated pursuant to and for the purposes mentioned in an act of the people of the State of New York, represented in senate and assembly, entitled "An act for the incorporation of companies formed to navigate the ocean by steamships," passed April 12, 1852, and the said company had their principal office for the transaction of business in the city of New York.

The plaintiffs further show that sometime on or about the seventeenth day of March, one thousand eight hundred and fifty-three, a certain contract or agreement in writing was made and entered into between the said Albert C. Ramsey and Edward H. Carmick of the one part, and The Mexican Ocean Mail and Inland Company of the other part, sealed with the seals of the said Carmick & Ramsey and with the common seal of the said corporation, in the words and figures following, to wit:

To all to whom these presents shall come, greeting: Know ye, that it is hereby covenanted, granted, and agreed between Albert C. Ramsey and Edward H. Carmick of the one part, and The Mexican Ocean Mail and Inland Company of the other part, in the manner following:

For that whereas Albert C. Ramsey, formerly of the State of Pennsylvania, has heretofore procured and obtained from the government of the republic of Mexico, or of the government of certain of the States of said republic, sundry grants, privileges, and franchises in respect to the navigation of the river Mescala, the construction of roads, and the transportation of mails in said republic, which said grants, privileges, and franchises were procured for and [in] behalf of sundry persons associated in the United States, and now represented by The Mexican Ocean Mail and Inland Company; and whereas the said The Mexican Ocean Mail and Inland Company have assumed the grants, privileges, and franchises aforesaid, and are proceeding to the execution and development of the same; and whereas, for the better and more perfect assurance and development of the same, the said Albert C. Ramsey and Edward H. Carmick have procured from the United States government a contract for carrying the mails of the United States from Vera Cruz, in Mexico, to San Francisco, in the

United States, bearing date the fifteenth day of February, one thousand eight hundred and fifty-three: Now, therefore, the said Albert C. Ramsey and Edward H. Carmick, for themselves, their heirs, executors, administrators, and assigns, respectively, doth each for himself and not the one for the other, severally covenant, promise, and agree to and with The Mexican Ocean Mail and Inland Company that they have held, and do now hold, and will continue to hold the said contract, and any extension or renewal of it, to and for the use of The Mexican Ocean Mail and Inland Company, and their successors and assigns, as and for their sole and exclusive property, together with all the issues and profits therefrom, or payments for the same or any future increase of service under it, and that they will, in due form of law, make and execute, under the appointment in writing of the said The Mexican Ocean Mail and Inland Company, all, every, and whatever contract, covenant, agreement, or instrument that may be necessary for the development, and prosecution, and operation of a through mail line from New Orleans to San Francisco; and that the said contract shall be for the use, benefit, and profit of the said The Mexican Ocean Mail and Inland Company, their successors and assigns, and that all and every payment or appropriation for or on account of said contract, for the enlargement of the service under or for any mail thereof, shall be held, received, and taken by them for and on account of the said Mexican Ocean Mail and Inland Company, and shall be paid over to their order or appointment, or as they may in writing direct; and that they will do every necessary act or thing whereby this agreement may be in good faith fulfilled and executed by them or either of them; and the said The Mexican Ocean Mail and Inland Company doth covenant, promise, and agree that the said Albert C. Ramsey and Edward H. Carmick shall be held free and harmless of and from all loss and damages by reason of the non-performance of any of the conditions of the said contract by or on the part of those who may be legally chargeable with the performance or execution of the said contract.

In witness whereof, the parties hereto have, in duplicate, respectively and interchangeably, set their seals, and caused the same to be duly subscribed and attested, this seventeenth day of March, in the year of our Lord one thousand eight hundred and fifty-three, in the city of New York.

Witness—

SAMUEL W. MARSH.

ALBERT C. RAMSEY, [SEAL.]

EDWARD H. CARMICK, [SEAL.]

THE MEXICAN OCEAN MAIL

AND INLAND COMPANY, [SEAL.]

ROBERT G. RANKIN, *President*.

as by the last-mentioned contract or agreement will, upon reference, appear.

The plaintiffs further show, upon information and belief, that, in pursuance of the said last mentioned contract or agreement so entered into between the said Carmick & Ramsey and the Mexican Ocean Mail

and Inland Company, the said corporation assumed the whole burden of the execution of the contract aforesaid between the United States of America and the said Edward H. Carmick and Albert C. Ramsey for the transportation of mails from Vera Cruz, in Mexico, *via* Acapulco, to San Francisco, and back; and for the purposes of such contract, the said Mexican Ocean Mail and Inland Company purchased and contracted for a large number of mules and horses, and purchased and transported to Mexico coaches, wagons, and ceteras, and their appurtenances, and other rolling stock; that in the month of August, one thousand eight hundred and fifty-three, the materials for the line being collected and placed upon the route between the cities of Vera Cruz and Acapulco, the said company commenced transporting the United States mail between Vera Cruz, *via* Acapulco and San Francisco, in pursuance and in full compliance with the terms of the said contract between the United States of America and Edward H. Carmick and Albert C. Ramsey, and continued in the performance of such mail service until some time in or about the month of December, in the same year, when, in consequence of the refusal of the then Postmaster General of the United States to recognize the said mail contract as binding upon the United States of America, the said mail service was abandoned.

That, as the plaintiffs are informed and believe, the said The Mexican Ocean Mail and Inland Company, in establishing the mail route under the terms of the said contract with the United States of America, and in making preparations for and in carrying the mails in pursuance thereof, contracted a large amount of indebtedness, exceeding in the aggregate the sum of fifty thousand dollars, the whole or the greater part of which is owing and unpaid; that no sum of money whatever was paid or expended by the said Carmick & Ramsey, or either of them, or by any person in their behalf, in relation to the said mail service, or in carrying out or in attempting to fulfill the terms of their said contract with the United States of America, as aforesaid.

That, as the plaintiffs are advised and believe, the Mexican Ocean Mail and Inland Company, as between such company and the said Carmick & Ramsey, are entitled to all the advantages and benefits to be derived from the said contract between the United States of America and Carmick & Ramsey since the assignment thereof to said company by said Carmick & Ramsey, on the 17th day of March, 1853, as aforesaid, and to all damages which may have resulted by reason of any breach of the said contract.

The plaintiffs further show that, by an act of Congress passed August 18, 1856, it is provided as follows:

"SEC..6. *And be it further enacted*, That the First Comptroller of the Treasury be, and he is hereby, required to adjust the damages due to Edward H. Carmick and Albert C. Ramsey, on account of the abrogation by the Postmaster General of their contract to carry the mail on the Vera Cruz, Acapulco, and San Francisco route, dated the 15th February, 1853, to be adjudged and awarded to them according to the principles of law, equity, and justice, the amount so found due; and the Secretary of the Treasury is hereby required to pay the same to the

said Carmick & Ramsey, out of any money in the treasury not otherwise appropriated."

That the contract referred to in the said act of Congress is the same contract which is hereinbefore set forth.

The plaintiffs further show, upon information and belief, that the said Albert C. Ramsey and Edward H. Carmick, under the said act of Congress, have presented a claim for the damages sustained under the said contract to Elisha Whittlesey, First Comptroller of the Treasury, and have made and presented to him sundry proofs of such damages. That the damages so claimed by the said Carmick & Ramsey consist in part of the various sums of money expended and debts incurred by the Mexican Ocean Mail and Inland Company in establishing the said mail route, and in transporting the United States mails under the said contract.

That, as the plaintiffs are informed and believe, the said Elisha Whittlesey, Comptroller, as aforesaid, has not yet made his award in the said matter, but it is expected that he will report thereon in a few days.

The plaintiffs further show, upon information and belief, that the said Edward H. Carmick and Albert C. Ramsey set up and pretend that they are the sole persons entitled to damages which may be awarded in pursuance of the said act of Congress, resulting from the breach of the said contract.

The plaintiffs further show that they are apprehensive that if the award which may be made by the said Elisha Whittlesey, Comptroller, &c., in pursuance of the said act of Congress, shall be paid to the said Edward H. Carmick and Albert C. Ramsey, the same will be applied by them to their own use, in fraud of the rights of the creditors and stockholders of the Mexican Ocean Mail and Inland Company, and will be wholly lost to such creditors and stockholders.

That the said Mexican Ocean Mail and Inland Company is insolvent and unable to pay its debts, and has been insolvent for more than one year. That William Kent, of the city of New York, was, on or about the 13th day of June, 1854, appointed by the superior court of the city of New York the receiver of the property, estate, and effects of the said company, but the plaintiffs are advised and believe that the said court had not jurisdiction in the appointment of such receiver, and that no title to the property or effects of the said corporation vested in the said William Kent as such receiver.

That the plaintiff, William H. Aspinwall, is a stockholder in the said Mexican Ocean Mail and Inland Company to the amount of five hundred shares of the capital stock thereof, of the par value of fifty thousand dollars. That by the terms of the act under which such corporation was formed, each stockholder is declared to be individually liable to the creditors of the said corporation for the debts of said corporation to an amount equal to the amount of stock held by him. That the plaintiff, William H. Aspinwall, has been sued, as a stockholder of the said corporation, by certain persons claiming to be creditors of the said corporation, upon claims held by them upon said corporation, and judgments in several of which actions have been recovered against him, the said William H. Aspinwall, to an amount exceeding the sum of twelve thousand dollars.

That the plaintiffs, Robert B. Coleman and Charles A. Stetson, are stockholders of the same corporation to the amount of three hundred and seventy-five shares, of the par value of thirty-seven thousand five hundred dollars. That as such stockholders, the plaintiffs, Coleman and Stetson, have been sued by creditors of the said Mexican Ocean Mail and Inland Company upon claims against such corporation, in one of which suits a judgment has been rendered against the said Coleman and Stetson for a sum exceeding nine thousand dollars.

The plaintiffs bring this action as well in behalf of themselves as of all other stockholders, and of all creditors of the said Mexican Ocean Mail and Inland Company who may come and contribute to the expenses of this action.

The plaintiffs demand that the damages and all benefits and advantage arising or accruing under the said contract between the United States of America and Edward H. Carmick and Albert C. Ramsey, may be adjudged to belong to the said Mexican Ocean Mail and Inland Company. That the said Edward H. Carmick and Albert C. Ramsey, may be perpetually enjoined and restrained from collecting or receiving any award which may be made by the said Elisha Whittlesey, Comptroller, as aforesaid, or by any other person under or in pursuance of the provision of the act of Congress, aforesaid. That the said corporation be dissolved, and a receiver appointed of the property and estate thereof; and that such property and estate be applied to the payment of the debts of the said corporation, and the residue, if any, be distributed among the stockholders of the said corporation according to their respective rights and interests.

That in the meantime the said Edward H. Carmick and Albert C. Ramsey, and their agents and attorneys, may be enjoined and restrained from collecting or receiving, assigning or transferring, any award which may be made in pursuance of the said provision of the act of Congress, aforesaid, or any right or claim to any damage or benefit under the said contract with the United States of America; and from doing any act or thing to prejudice the rights of the Mexican Ocean Mail and Inland Company, or the creditors or stockholders of said corporation in any such award, or in such damages or benefits, and that the plaintiffs may have such other or such further relief in the premises as may seem meet.

VARNUM & TURNEY,
Plaintiffs' Attorneys.

CITY AND COUNTY OF NEW YORK, ss.

Charles A. Stetson, being sworn, saith: That the above complaint is true of his own knowledge, except as to the matters therein stated on information and belief, and also except as to the averment therein in respect to the stock held by William H. Aspinwall, and the suits against him therein, and as to those matters he believes it to be true.

C. A. STETSON.

Sworn this 16th day of April, 1857, before me,

JOHN FOOT,
Commissioner of Deeds.

CITY AND COUNTY OF NEW YORK, ss.

Paschal W. Turney, being sworn, saith: That he is one of the attorneys of the plaintiffs in this action; that he has read the above complaint, and knows the contents thereof, and that the same is true, except as the matters therein stated on information and belief, and except as to the averment in respect to the stock held by the plaintiffs, Coleman & Stetson, and the suits against them thereon, and as to those matters he believes it to be true.

That the plaintiff, William H. Aspinwall, is absent from the State of New York, and is in Europe, and deponent makes this affidavit by reason of such absence; that deponent has in his possession the original agreement between Carmick & Ramsey and the Mexican Ocean Mail and Inland Company, set forth in the complaint, and he has a copy of the postal contract, also set forth in the complaint, the same being printed by order of Congress; that deponent is the attorney and counsel of said Aspinwall in the various suits brought against him as a stockholder of said corporation, and has had the principal management of the defense in such suits; that deponent has acquired information of the several facts stated in the complaint from the testimony taken in such suits, and from the statements of the officers of said corporation and others; and that he has derived his information of the facts relative to the proceedings taken under the act of Congress referred to in the complaint for the purpose of ascertaining the damages thereby directed to be adjusted, from letters received from Mr. Whittlesey, the First Comptroller, and others, and from the oral statements of other individuals, and from the public newspapers.

P. W. TURNEY.

Sworn, this 16th day of April, 1857, before me.

JOHN FOOT,
Commissioner of Deeds.

[SEAL.]

At a special term of the supreme court held at the city of New York on the 17th day of April, 1857—

Present: Henry E. Davis, justice.

William H. Aspinwall, Robert B. Coleman, and Charles E. Stetson, against Edward H. Carmick, Albert C. Ramsey, The Mexican Ocean Mail and Inland Company, and William Kent, receiver, &c.

It appearing satisfactorily to the court by the affidavits of Charles A. Stetson, one of the plaintiffs, and Paschal W. Turney, one of the attorneys of the plaintiffs, that sufficient grounds for an order of injunction exist: Now, on motion of Varnum and Turney, plaintiff's attorneys, it is ordered that the defendants, Edward H. Carmick and Albert C. Ramsey, and their agents, attorneys, and servants, do absolutely desist and refrain from collecting or receiving, assigning or transferring any award which may be made by the First Comptroller of the Treasury pursuant to the provisions of the act of Congress

passed August 18, 1856, for the damages due to them on account of the abrogation by the Postmaster General of their contract to carry the mail on the Vera Cruz, Acapulco, and San Francisco route, dated the 15th day of February, 1853, or any right or claim to any damage or benefit under the said contract, and from doing any act or thing to prejudice the rights of the Mexican Ocean Mail and Inland Company, or the creditors or stockholders of said corporation in any such award or in such damages or benefits until the further order of this court. And, in case of disobedience of this order, the said defendants, Ramsey & Carmick, are to be liable to the punishment therefor prescribed by law.

STATE OF NEW YORK, *City and County of New York*, ss:

I, Richard B. Connolly, clerk of the said city and county, and clerk of the supreme court of the said State for said county, do certify that I have compared the preceding with the original order on file in my office, and that the same is a correct transcript therefrom and of the whole of such original.

In witness whereof, I have hereunto subscribed my name and affixed
[SEAL.] my official seal, this 17th day of April, 1857.

RICHARD B. CONNOLLY,
Clerk.

ASPINWALL vs. CARMICK.

NEW YORK, *May 1*, 1858.

DEAR SIR: On the 18th of April, 1857, we served upon your predecessor, Comptroller Whittlesey, a copy of a complaint and injunction issued in the above suit, which papers are now on file in your office.

Without in any way waiving the claim of our client in the matter, as heretofore presented, we desire to withdraw the papers referred to.

Yours, very respectfully,

VARNUM & TURNEY,
Attorneys for Aspinwall.

• Hon. W. MEDILL,
Comptroller of the Treasury.

Please address reply to J. B. Varnum, jr., care of Silas H. Hill, Washington city.

